JUNIPER

EXTRAORDINARY partnerships.

March 31, 2005

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Docket No. R-1217

Dear Ms. Johnson:

On behalf of Juniper Financial Corp, and its wholly owned subsidiary Juniper Bank ("Juniper"), I am pleased to submit this letter in response to the Board of Governors ("Board") request for public comment regarding the Advance Notice of Proposed Rulemaking ("ANPR") to review the open end credit rules of Regulation Z. Juniper Bank is a partnership focused issuer of credit cards, with approximately $1.5 billion in managed credit card receivables and approximately 800,000 credit card accounts. Founded in 2001, it is one of the fastest growing credit card issuers in the United States. Juniper is a wholly owned subsidiary of Barclays Group U.S. Inc., a United States Financial Holding Company which is itself a wholly owned subsidiary of Barclays Bank PLC. As a company wholly focused on the issuance of credit cards, Juniper appreciates the opportunity to make its views know to the Board on this important subject.

SUMMARY

Juniper wholeheartedly agrees with the Board's primary goal "to improve, if possible, the effectiveness and usefulness of open-ended disclosures and substantive protections" set forth in Regulation Z. Any improvements to Regulation Z that achieve that goal would serve both consumers and credit card issuers. Consistent with that goal, disclosures should be concise, easy to read and understandable. We encourage the Board to limit required disclosures to those most consumers are likely to be interested in; comprehensive disclosure of all account terms is likely to result in information overload and would only serve to ensure that important terms are not read and understood by consumers. In accordance with that goal, we have several suggestions set forth below.

At the outset, Juniper believes it important to note that for the most part, the current disclosure scheme for credit cards works well. While it would help to update and revise some disclosure provisions in Regulation Z, it is not necessary to revise the entire disclosure scheme. More than any time in the past, consumers read the information provided to them in credit card solicitations and other disclosure documents. We at Juniper have found that consumers for the most part use their credit cards in an efficacious manner -- they transfer balances on cards with low introductory rates on balance transfers;

place a lot of transactions on cards that provide rewards for card use, pay off balances that are subject to higher APRs, etc.

Consumers know to look for the "Schumer Box" in credit card solicitations and use it to compare offers. The Schumer Box conveys a lot of meaningful information in a clear and conspicuous manner. Juniper therefore believes that while improvements can be made to the "Schumer Box" and to the other required disclosures in credit card solicitations, a wholesale revision to the disclosure scheme in credit card solicitations would be a mistake. With regard to Initial Disclosure Statement, Juniper believes that some sort of summary or chart containing the more important disclosures would be a good idea – either as part of the cardmember agreement or to be included in the card carrier. Finally, with regard to periodic statements, the format should be left largely intact – again with some improvements suggested.

DISCUSSION

Schumer Box. As stated previously, Juniper believes that the "Schumer Box" in credit card solicitations is a highly effective way to disclose the most material pricing terms. It enables consumers to learn about the more important pricing terms of the credit card offer in a highlighted and easy to read format and to comparison shop credit cards on an apples to apples basis. Importantly, consumers have learned to look for the "Schumer Box" to ascertain credit card pricing terms.

However, we believe that not all the information required to be included in the Schumer Box is that helpful. Although required by law, the requirement to disclose the minimum finance charge imposed for each period in which there is a finance charge is virtually meaningless and does not help the consumer learn material information about the credit card product much less comparison shop between credit cards. Similarly, the disclosure of the balance computation method is largely irrelevant to the consumer when deciding which credit card offer to choose from. Consumers do not understand differences between balance computation methods and how they might and might not impact the consumer. Disclosure of the minimum finance charge and balance calculation method only serves to detract from the disclosure of the more important credit terms. To the extent the Board believes that information should be made available to consumers about balance computation methods, the Board itself could create a Credit Card Users' Manual that describes balance computation methods (Juniper supports the Board creating a Credit Card Users' Manual that it could post on its web site as part of the Board's efforts to educate consumers about the wise use of credit). However, such information should not clutter the "Schumer Box".

At the same time, some consumers do consider balance transfer fees and cash advance fees to be important pricing terms and their inclusion in the "Schumer Box" might help some consumers make meaningful decisions as to which credit card products to apply for. Many issuers, such as Juniper, already include those fees in their "Schumer Boxes". Therefore, we at Juniper would propose the inclusion of such information in the Schumer Box in return for the removal of the minimum finance charge and balance calculation method (we understand that this might be hard to do given the statutory requirements of the Truth in Lending Act ("TILA") but it would improve the quality of information disclosed to consumers in the Schumer Box).

Initial Disclosures. Juniper believes that for the same reason the Schumer Box works with regard to solicitations, a summary of important disclosures in a tabular format might help consumers with regard to initial disclosure statements. In the credit card context, it either should be attached as part of the cardmember agreement or included on the card carrier. It should contain only the most important pricing terms: 1) each periodic rate that may be used to compute the finance charge on an outstanding balance expressed as an APR (ie not the daily or monthly periodic rates); 2) if the rate[s] vary, disclosure of that fact and how the rate[s] may vary; 3) any annual or periodic fee expressed as an annualized amount; 4) any transaction fees such as balance transfer and cash advance fees; 5) late fees; and 6) over the limit fees. We also agree that putting such terms in a chart or tabular format would help highlight those terms. In connection with this requirement, we urge the Board to be flexible regarding "other" pricing disclosures in that such disclosures should be permitted to be on the same page as the disclosures included in the tabular format. Most credit card issuers employ varying pricing schemes. At Juniper, we manage the disclosure of the various pricing schemes by lasering all pricing terms on one page of the cardmember agreement (the other terms are standard for all our cards and do not change from cardmember to cardmember). We use a chart format to highlight the important terms, but do require that all pricing disclosures be on that page. Requiring the "other" pricing disclosures to be on different pages could greatly increase the costs of producing the initial disclosure statements.

Periodic Statements. Juniper believes that the disclosures on periodic statements generally work – that most of the information disclosed on the periodic statements is useful. With the exception of the effective annual percentage rate, we do not receive many complaints about the information conveyed on our periodic statements; indeed, for obvious reasons we strive to make our periodic statements as informative and easy to read as possible. Cardmembers do read their periodic statements. They want to know where they spent their money and what they are being charged for. The clearer our disclosures are, the fewer time consuming and expensive customer phone calls we receive. It is in credit card issuers' best interest to be as clear as possible and to find ways to become more clear; any restrictions on periodic statement disclosures could only serve to dampen innovation and potentially might make the periodic statements less clear. An example of this might be a requirement to group all fees together on the periodic statement. In most instances, labeling the fees and disclosing them in chronological order, rather than lumping them together, will be more instructive to the consumer.

Moreover, any substantive or formatting changes in periodic statements would be very expensive. Unlike other disclosures which are static, periodic statements necessarily change with each billing cycle. The software systems employed to produce periodic statements are therefore necessarily more complex and sophisticated. Any required changes, especially any required format changes, would require major systems changes and new forms at great expense.

The two exceptions where we at Juniper perceive room for improvement with regard to periodic statements are the periodic rates (usually the daily periodic rates) and the effective annual percentage rate. The fact is both disclosures not only do not provide meaningful information, we at Juniper believe they only serve to confuse the consumer.

The effective or historical annual percentage rate is the worst offender. It distorts the actual cost of credit. It is either significantly lower (the effective APR for transactions is often 0.00%, potentially leading consumers to believe that their account is not subject to finance charges) or significantly higher. In the higher context, the effective APR is often grossly inflated because a transaction charge such as a cash advance fee must be amortized over one billing cycle. Furthermore that transaction charge may have little or or it may have a substantial impact on the effective APR, depending on the size of the balance it is applied against. Consumers viewing the effective APR have no knowledge of how the effective APR is calculated or of the variables that might cause it to increase or decrease; they only see that it is higher than the corresponding APR. (as an aside, we note that the Board has asked whether providing an explanation of how the effective APR is calculated would help. We submit that this would only lead to increased customer confusion and information overload; it is a very confusing calculation.) This causes the consumer angst and a costly increase in phone calls to customer service. We at Juniper recognize that more consumer groups believe in the shock value of effective APRs because that "shock" might serve to convince some consumers to access less credit. We posit that this simply is their belief that credit card credit is bad and that anything that discourages the use of credit card credit is good. We further postulate that that is not the purpose of Regulation Z – that the purpose of Regulation Z is to provide meaningful and <u>accurate</u> information to consumers so they can make educated and informed decisions about their use of credit card credit. Disclosing inaccurate and misleading information does not serve that goal. Rather, clear disclosure of transaction fees (including disclosure of them in the "Schumer Box") is the best way to provide relevant information that consumers can easily understand and contrast with regard to competing offers (ex. – a $2 cash advance fee offered by Bank A versus $3 cash advance fee offered by Bank B).

Similarly, the disclosure of periodic rates (specifically daily periodic rates) serves no purpose. 99.99% of consumers pay no attention to the periodic rate. If they really do want to calculate it, they can simply divide the corresponding APR by 365 (for daily periodic rate) or 12 (for the monthly periodic rate). The disclosure of the daily periodic rate simply adds to disclosure clutter.

<u>Issuance of Credit Cards</u> The ANPR requests comment on whether the Board should revise Regulation Z to provide creditors the latitude to issue additional cards on an existing account as opposed to limiting the issuance of cards to renewals of or substitutions for previously issued credit cards. We urge that the Board provide for such flexibility. As the Board is aware, advances in technology have provided for the invention of new credit card access devices such as transponders and key fob cards. We submit that issuers should be allowed to send new access devices to their existing cardmembers without having to replace the devices already in the cardmembers' possession. This can be done in a way so

as to preserve existing cardmembers' liability protections and serve the convenience of both cardmembers and card issuers. This would promote technological developments without compromising consumer protections.

Juniper also urges the Board to consider whether, in the context of replacement cards, the replaced card must always be deactivated. This creates a burden on both cardmembers and card issuers, especially when the cardmember is turned down at the point of sale when using the replaced card. Moreover, providing that the replaced card need not be deactivated can be done in a way so as to not expand the cardmembers' liability for unauthorized use.

<u>Issuance of Convenience Checks</u> Juniper does not believe that the protections of Regulation Z should be extended to convenience checks – that existing protections already in place are more than sufficient. We at Juniper are unaware of virtually any complaints by our cardmembers regarding unauthorized transactions regarding convenience checks or the unsolicited issuance of convenience checks. To the extent a cardmember claims that a convenience check was used without authorization, we generally resolve such claims in favor of the consumer consistent with the provisions of the Uniform Commercial Code. With regard to the unsolicited issuance of convenience checks, we find that consumers appreciate receiving them and use them at locations where cards are not accepted. To the extent a cardmember wants us not to send unsolicited convenience checks, we will honor that request. We are unaware of any issuer that would not do likewise.

<u>Payment Allocation</u> There has been a lot of litigation on the subject of payment allocation. As a result, credit card issuers generally make payment allocation disclosures in solicitations and in the initial disclosure statement. Wherein Juniper would appreciate model disclosures in this regard to provide a safe harbor, it would be opposed to suggestions which might only lead to increased litigation exposure. Again, the Board could include in a Credit Card Users' Manual general information about common payment allocation practices.

<u>Other Charges</u>. The best time to disclose fees for such things as credit card replacement, overnight courier fees and the like, is at the time they are incurred. At Juniper we disclose such fees to the customer at the time he/she requests the service. That is the teachable moment. Consumers will pay attention to the amount of the fee at the time they actually incur such a fee and make an educated decision as to whether or not to employ the service requiring the fee; they usually pay no attention as to the amount of such fees at any other time.

<u>Over-The-Credit-Limit Fees</u>. Juniper does not believe that there needs to be additional disclosures regarding over the credit limit fees – any further disclosures may lead not only to information overload, but also possibly to calculated inappropriate behavior. For instance, Juniper assesses an over the limit fee only at the end of the billing cycle if the cardmember is over the credit limit at that time. Increased disclosure could lead certain consumers to deliberately go over the credit limit during the billing cycle with the intention of paying it down before the end of the billing cycle. Clearly, this is behavior no one wants

to encourage. In addition, most credit card issuers provide a cushion for transactions that slightly exceed the credit line so that over the credit limit fees are not assessed at that time. Again disclosure of such a cushion could only promote risky behavior.

Minimum Payment Disclosures The Board has solicited comments regarding disclosures as to how long it would take a cardmember to pay off a balance if the cardmember only makes minimum payments. We urge the Board to do nothing at this time, given the impending passage of bankruptcy reform legislation. The minimum payment issue has been the subject of considerable debate in Congress and the compromise solution incorporated into the legislation requiring minimum payment disclosures should resolve this issue. Should the Board feel compelled to do something, this is also something that could be explained in a Crredit Card Users' Manual created by the Board.

Advance Notice of Rate Changes We at Juniper are not aware of any instances where a penalty rate can be imposed without the consumer first being informed of the penalty rate. The possibility of a rate increase resulting from a cardmember's actions, if part of the credit card account terms, must be disclosed in the "Schumer Box" in the solicitation and in the initial disclosure (cardmember agreement). When imposed the new rate must be disclosed in the periodic statement (we take note here that the historical or effective APR disclosure might serve to detract from the disclosure of the new APR in that the consumer might confuse the two). If the increased rate is not part of the account terms, the consumer must be informed of the increased rate through a change in terms notice. Additional disclosure would seem to be superfluous. We do agree that consistent terminology might be beneficial to consumers understanding of when penalty rates could be imposed and would welcome Board guidance as to appropriate terminology.

Model Forms. We understand that the Board is considering drafting some model clauses and forms. While not opining one way or another on the forms, Juniper would posit that compliance with those model clauses or forms should serve as a "safe harbor" and insulate the issuers using those forms from legal liability. Furthermore, model forms should not be mandatory; card issuers should be encouraged to provide enhanced and improved disclosure formats.

Focus Groups We also understand that the Board plans to use consumer focus groups in developing model forms. While certainly appropriate, we at Juniper caution against over reliance on focus groups. Market research firms, pollsters and marketing departments are increasingly finding that focus groups are unreliable, that there is a huge gap between consumer intentions expressed in focus groups and behavior in the marketplace. (See How Customers Think, by Gerald Zaltman of the Harvard Business School). Focus group participants often express what they think others want to hear as opposed to what they really think; and many participants do not really know what they want. Over reliance on focus groups could actually lead to the Board designing disclosures that are not helpful. It is important that the Board follow up any focus groups with tests that measure what consumers actually do, not what they think or say they are likely to do.

CONCLUSION

Once again, Juniper appreciates the opportunity to submit our comments to the ANPR. If you have any questions with regard to our comments or if I or Juniper can be of any assistance to you in connection with this issue, please do not hesitate to contact me by phone at 302-255-8700 or by email at cwalker@juniper.com. Thank you very much.

Sincerely,

Clinton W. Walker
General Counsel