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BY E-MAIL

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Regs.comments@federalreserve.gov

Re: Regulation Z - Docket No. R-1217

Dear Ms. Johnson:

The PNC Financial Services Group, Inc. ("PNC"), Pittsburgh, Pennsylvania, appreciates the opportunity to submit comments to the Board of Governors of the Federal Reserve System (the "Board") on its second advance notice of proposed rulemaking ("ANPR") regarding the open-end credit rules of Regulation Z and request for comments on implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Bankruptcy Act") (70 *Federal Register* 60235) (October 17, 2005)).

PNC is one of the largest diversified financial organizations in the United States, with approximately $93.3 billion in total assets as of September 30, 2005. Its major businesses include consumer banking, wholesale and institutional banking, asset management and global fund processing services. PNC's lead bank, PNC Bank, National Association, Pittsburgh, Pennsylvania, has branches in the District of Columbia, Florida, Indiana, Kentucky, Maryland, New Jersey, Ohio, Pennsylvania, and Virginia. PNC also has one other bank subsidiary, PNC Bank, Delaware, Wilmington, Delaware, which has branches in Delaware.

General Comment

PNC supports the Board's intention of clarifying the disclosure rules for closed end credit and is pleased to have the opportunity to submit a comment on the ANPR. Any changes to Regulation Z adopted by the Board are certain to have a significant impact on all financial institutions engaged in consumer lending, and we urge the Board to consider carefully the specific comments offered below, especially the point made in response to Q59, which we believe is the most critical issue in the ANPR.

SPECIFIC COMMENTS

The Board requests comment on a number of issues regarding open-end credit disclosures. The numbered sections below correspond to the numbered questions in the ANPR.

Minimum Payment Disclosures

Q59--Should certain types of accounts be exempt from the disclosures?

Under the Bankruptcy Act, minimum payment disclosures are required for all open-end accounts, including home-equity lines of credit ("HELOCs") and general-purpose lines of credit. The Board has broad authority to provide exceptions from the TILA requirements, and is asking whether it should consider a complete exemption from the minimum payment disclosures for open-end accounts or extensions of credit under an open-end plan if there is a fixed repayment period. Or, alternatively, should the Board provide an exemption from disclosing the hypothetical example and toll-free number on periodic statements, but still require a standardized warning indicating that making only the minimum payment will increase the interest the consumer pays.

PNC POSITION. We believe strongly that HELOCs with fixed draw and repayment periods should be completely exempted from this requirement. The concern that consumers may not be fully aware of how long it could take to pay off a credit card if only the minimum monthly payments are made does not exist for the standard HELOC product, where the length of time to repay the balance is fixed and stated in the credit agreement. Initially, the consumer is informed about the specifics of the draw and repayment period and how payments are calculated at the time of application, in disclosures already required by Section 226.5b of Regulation Z. Further, the minimum payment, the repayment period for amortizing the outstanding balance, and the date of the final payment are all disclosed at account opening. If the customer continues to make the minimum payment during the draw and repayment periods, then the account will pay off within the specified repayment period. Given the extensive disclosure already provided, and the fact that the minimum payment is calculated to repay the loan over an established repayment period, there is absolutely no benefit to giving the customer information about what will happen if only the minimum payment is made.

If the Board declines to exempt HELOCs altogether, we urge the Board to require only the standardized warning and exempt HELOCs from the hypothetical example and toll-free number requirements.

We would also note that we believe HELOCs with fixed rate options should be within the category of loans outside the scope of the minimum payment requirement. PNC, along with many other financial institutions, offers HELOCs with a fixed rate option feature. This is now our standard HELOC product. With such a product, the consumer has the option to move a portion of the balance into a fixed rate, fixed term part of the HELOC. The customer is able to choose the amount and term of the fixed rate part(s). At the time the fixed rate portion is established, the customer is given a payment schedule that will pay off that fixed rate balance over the term the consumer has chosen. PNC permits a consumer to establish up to 2 fixed rate parts at one time. A customer with two outstanding fixed rate portions and a balance on the variable rate portion would have at least 2 annual percentage rates (“APRs”) associated with the account, and several different amortization schedules. As explained above, the consumer is given information about the draw period, the repayment period, and the minimum payment requirements at the time of account opening. Each time a portion is fixed, the consumer is given a payment schedule for the fixed rate portion, and if scheduled payments are made as required, that portion of the account will pay off within a definite repayment period. As stated in the response to Q59 above, there is no benefit to giving the consumer additional information on the minimum payment with any type of HELOC, and that is especially true with the HELOC that includes a fixed rate, fixed payment option.

Q74—As an alternative to disclosing more complete APR information on periodic statements, creditors could program their systems to calculate a consumer’s repayment period based on the APRs applicable to the consumer’s account balance. Should this be an option or should creditors be required to do so? What would be the additional cost of compliance for creditors if this was required. Would the cost be outweighed by the benefit in improving the accuracy of the repayment estimates?

PNC POSITION

PNC makes personal unsecured lines of credit (“PLOCs”) that would be subject to this requirement. We believe the Board should give creditors the option of either disclosing the standard example information on the statement or programming their systems to calculate the repayment based on the customer’s actual account information. PNC understands the intention behind the minimum payment requirement, and we support the idea that consumers may benefit from additional information on this subject. However, our concern with turning this into a requirement is that we have tens of thousands of accounts that have tiered rates, so that different APRs will apply to different outstanding balances. The minimum payments are calculated in various manners, including some that are calculated as either a percentage of the outstanding balance or a minimum amount, whichever is greater. We currently have numerous small portfolios of accounts with many potential APRs. The number of customers who could benefit from the information is very small compared to the amount of work that would be necessary to program our system to provide for the almost infinite variations on the minimum payment and APR calculations.

If the Board directs that we must give customers relevant information tailored to their particular loan with a customized repayment schedule, it would require an immense amount of work at enormous cost. The programming would be very complex with much room for error. We estimate the work involved would take 4,125 hours at a cost of $412,500. This estimate does not even take into account the cost to establish and staff a new toll-free number at our call center. We would need to arm our customer service representatives with information to respond to inquiries whose responses could be vastly different, depending on loan type and repayment calculation. This is a particular problem for institutions that have acquired smaller banks in the past, with varied PLOC portfolios. Based on this, we strongly encourage the Board to make this an alternative option. That way, creditors could determine, based on the number of customers affected, whether it is more beneficial to program their systems to give customized information or to give the standard examples prepared by the Board.

We assume, in reading this question, that this suggested alternative is the one outlined at page 60237 of the ANPR (information that must be given if the creditor uses the alternate method of providing the actual number of months that it will take consumers to repay their outstanding balance instead of providing an estimate based on the Board-created table). If the Board does establish this option, we suggest the Board give additional guidance on exactly what information must, or can, be given to consumers who call for this information. For example, must the information be given via an automated system? Can a live employee give the information? Further, if a live employee gives the information and a consumer asks additional account-related questions, or questions about how the repayment schedule will change if the APR or payment amount changes, is the creditor permitted (or required) to give the consumer the information requested?

Disclosures Related to Payment Deadlines and Late Payment Penalties

The TILA is amended to require creditors offering open-end plans to provide additional disclosures on periodic statements if a late payment fee will be imposed for failure to make a payment on or before the required due date. The periodic statement must disclose clearly and conspicuously, the date on which the payment is due, or if different, the earliest date on which a late payment fee may be charged, as well as the amount of the late payment fee that may be imposed if payment is made after that date.

Q97—Are there any circumstances under which the “date the payment is due” would be different from the “earliest date on which a late payment fee may be charged?”

PNC POSITION. Yes, it is quite common that a late fee is not imposed until some number of days after the actual payment due date. For example, our standard loan documents may state that a payment is due on the first of the month, and then state that a late fee will be imposed if the payment is not received within 15 days of that payment due date. This is standard in the industry.

Q98—Is additional guidance needed on how these disclosures may be made in a clear and conspicuous manner on periodic statements? Should the Board consider particular format requirements, such as requiring the late payment fee to be disclosed in close proximity to the payment due date? What model disclosures, if any, should the Board provide with respect to these disclosures?

PNC POSITION. Additional guidance for these disclosures would be appreciated, including particular format requirements. We ask the Board to publish model disclosures for these new statement requirements and to take into account operational programming issues for creditors. Specifically, PNC uses a statement base that is in a preprinted format, and fills in specific information such as APRs and account balances. Late charges vary by product because, in many cases, customers may be charged a sum that is the greater of a set dollar amount or a percentage of the outstanding late payment (i.e., $20 or 10% of the overdue payment, whichever is greater). At the time the statement is generated, that late payment has not been calculated by our system, and is not calculated until actually billed. To add a disclosure of the actual numerical amount of the late charge to the statement would mean a huge work effort on our part. We estimate it would take 1,275 hours at a cost of $127,500. Based on this, we urge the Board to specify in the Regulation and model disclosures that a creditor may give (1) the number of days rather than the actual date a late charge is due, and (2) the manner in which the late charge is calculated rather than the actual amount of the late charge.

Q99—The Board has requested comment on whether it should issue a rule requiring creditors to credit payments as of the date they are received, regardless of what time during the day they are received. Currently, under Reg Z, creditors may establish reasonable cut-off hours; if the creditor receives a payment after that time (such as 2:00 pm), then the creditor is not required to credit the payment as of that date. If the Board continues to allow creditors to establish reasonable cut-off hours, should the cut-off hour be disclosed on each periodic statement in close proximity to the payment due date?

PNC POSITION. We believe the Board should retain the reasonable cut-off hour rule because it gives financial institutions the ability to complete the processing of payments at a definite hour of the day. If the rule is changed, this will cause many more manual account adjustments to be performed. Any additional manual process creates more room for human error. If the Board does retain the rule, we do not believe the cut-off hour needs to go on the statement in close proximity to the payment due date. There is already so much information on line of credit statements, with additional information to be required once the minimum payment and late payment disclosure requirements go into effect, that these statements are going to become crowded and complex. PNC already gives the cut-off time to consumers in the account agreement and on the reverse side of the statement. If the Board adopts such a requirement, we would suggest that the placement of information be at the creditor's option.

Disclosures for Home-Secured Loans that May Exceed the Dwelling's FMV

Creditors extending home-secured credit (open and closed end) must provide additional disclosures in cases where the extension of credit exceeds or may exceed the fair market value ("FMV") of the dwelling. Currently, open end creditors extending home secured credit already are required to disclose at the time of application that the consumer should consult a tax adviser for further information about the deductibility of interest and charges.

Q103—In determining whether the debt "may exceed" a dwelling's FMV, should only the initial amount of the loan or credit line and the current property value be considered? Or should other circumstances be considered, such as the potential for a future increase in the total amount of indebtedness when negative amortization is possible?

PNC POSITION. We believe the Board should require creditors to consider only the initial amount of the loan or line of credit. To require a creditor to try to predict what may happen on a loan or line of credit, based on a consumer's payment behavior, would require extrapolation, resulting in a disclosure that could be meaningless and unnecessary in many cases.

Q105—With the exception of certain variable-rate disclosures, disclosures for closed-end mortgage transactions generally are provided within 3 days of application for home purchase loans and before consummation for all other home-secured loans. Is additional compliance guidance needed for the new disclosures that must be provided at the time of application in connection with closed-end loans?

PNC POSITION. Yes, additional guidance would be appreciated. With all the new disclosure requirements, any and all guidance the Board can give creditors will be useful.

CONCLUSION

PNC expresses its appreciation for this opportunity to comment on the Proposal. We hope our comments will be helpful to the Board in formulating the final regulation. Please feel free to contact us if you have any questions about our comments.

Sincerely,

James S. Keller

James S. Keller

cc: Michael Carroll
Federal Reserve Bank of Cleveland

Melinda B. Turici
John J. Wixtred, Jr.
The PNC Financial Services Group, Inc.