From: sadams7943@aol.com on 10/11/2007 06:25:05 PM

Subject: Truth in Lending

October 12, 2007

Ms. Jennifer L. Johnson, Secretary
Board of Governors
Federal Reserve System
20th and Constitution Ave., N.W.
Washington, DC 20551
By email: regs.comments@federalreserve.gov

Re: **Comments to Docket No. R-1286**
Regulation of Credit Cards

Dear Ms. Johnson:

My name is Stella J. Adams, I am writing to comment on the Federal Reserve Board's proposed revisions to credit card and other open end credit disclosures under the Truth in Lending Act (TILA).

The Board proposes to require a table for disclosure of critical terms when the account is actually opened, and when the creditor provides a change in terms notice. This expands on the current requirements which require disclosure at the application and solicitation stage. I strongly support this proposal and I believe it will dramatically improve the readability of credit card disclosures and provide more information to consumers. I also support the Board's proposal to improve the disclosure of penalty rates in the applications/solicitation and account opening disclosures.

I believe that the industry practice of reserving the right to make unilateral changes in the terms of the credit card agreement is an unfair and deceptive trade practice and should be abolished by the Board through its UDAP authority under the Federal Trade Commission Act. The Board is proposing to extend the change in term notice from 15 to 45 days rather than deal directly with this abhorrent practice. A better method would be to only allow changes in terms when there is a renewal of the card.

The Board is also proposing requiring 45 days notice before: (1) imposing a penalty rate or (2) if a reduction in credit limit results in imposition of an over limit fee or penalty rate. I support this requirement.

The Board would prohibit the use of the term "fixed" unless the interest rate really will not change for a certain period of time, which must be disclosed, or is fixed forever. I support this proposal, because it addresses a common "bait and switch" tactic by creditors who advertise low "fixed" rates, but then change the rates later.

The Board has proposed a few minor improvements targeted at subprime credit cards, most notably requiring a disclosure when the fees or security deposit charged to a credit card exceed 25 percent of the card's credit limit. The threshold should be lowered to 10%.

I am concerned that three proposals by the Board will radically reduce the content and meaningfulness of credit card disclosures.

The Board has proposed permitting creditors to disclose a range of Annual Percentage Rates (APRs) in credit card application disclosures, so that the creditors can make a post-application review of the consumer's credit score. Creditors would be permitted to delay disclosure of the actual APR that the creditor is offering until the consumer receives the account opening disclosures (often along with the credit card itself).

The Board's model disclosure provides no helpful information. It does not tell the consumer what he or she is applying for. There is an 11 percent spread in these rates, which, on a $1,000 balance, amounts to an annual difference of over $100 in interest.

This problem is especially acute with respect to balance transfers. The Board proposes to permit creditors to disclose a range of APRs, then assign the real APR after the consumer has initiated the balance transfer. With balance transfers, consumers often move balances of hundreds or thousands of dollars, thus committing themselves to significant liability under the terms of the account. Consumers should not be forced to make the decision to transfer hundreds or thousands of dollars in debt blindly, just to make it more convenient for creditors to engage in risk-based pricing.

The Board has also proposed to drastically limit the number of fees that creditors are required to disclose at account opening and for change in terms notices. The only fees that creditors will be required to disclose in these notices are:

a. Annual or other periodic fee

b. Transaction fees - cash advance, balance transfer, ATM or currency conversion fee

c. Penalty fees - late payment, overlimit, or returned payment fee

d. Minimum finance charge

For all other fees besides these four categories, the creditor need only disclose the fee at any time prior to when the fee is imposed. Furthermore, these other fees can be disclosed orally, without the requirement of written documentation. This is a recipe for disaster, consumers will be bilked out of billions of dollars if this is allowed to stand. Any and all new fees or increases in fees not disclosed at account opening must be included in the change of use notices if not, this is a loophole big enough to drive a MACK Truck through.

The Board's proposal will simply encourage creditors to develop new fees outside of these four categories and creditors will certainly shift their profit structure to rely on revenue from these new fees, moving away from the ones that the proposed rule requires to be disclosed in the table. Passage of this language would amount to encouraging the market to find new ways to bilk the consumer. This is a clearly foreseeable outcome and should be avoided at all costs.

The Board is proposing two alternatives for the effective APR. The first alternative would be to modify it. The second would be to eliminate it. I am vehemently opposed to the elimination of the effective APR.

The effective APR and its calculation are specifically mandated by Section 1606 of TILA for open-end

credit. The Board's proposal contradicts the very reason Congress enacted TILA, because it would eliminate the only APR in open end credit that reflects the total cost of borrowing. The Board's stated rationale for this alternative is that consumers are confused by the effective APR and do not understand it. This is the same "confusion" argument often used by high cost lenders, such as payday lenders. In fact, the Board's proposal provides ample incentives for payday lenders to convert their predatory loan products into open end credit. These payday lenders could charge only fixed or transaction fees and thus disclose the APR on these products as 0 percent. Such products are already on the market, such as the product that payday lender Advance America offered in Pennsylvania, which carried a "participation fee" of $149.95 *per month* for a credit limit of $500 and a 5.98 percent periodic APR. This translates into an effective APR of over 350 percent. Yet if the Board eliminates the effective APR, Advance America would never need to disclose that 350 percent figure and would only disclose a 5.98 percent periodic APR.

Indeed, the Board admits in its analysis that an effective APR is the best way to provide information about an open end credit product that did not impose periodic interest charges but only transaction or flat fees. The Board notes these products are not common; however, they will become more common if the effective APR is eliminated.

If consumers are confused by the effective APR, the solution is to improve the disclosure, not eliminate it. The Board has taken one step, discussed below, by relabeling it as a "fee inclusive APR" and providing an explanation. The Board needs to move further in that direction, not get rid of the most informative measure of the cost of credit in credit cards.

The Board's second alternative is to modify the effective APR by – labeling it the "Fee Inclusive" APR and requiring an explanation of what it means; limiting the fees included in the calculation of the effective APR to 5 categories – periodic interest, transaction charges (cash advance, balance transfer), mandatory credit insurance/debt cancellation, minimum finance charges, and account activity/account balance fees; and requiring disclosure of a separate effective APR for each fee.

I join with the Woodstock Institute in its supports the first modification - to rename the effective APR as the "Fee Inclusive APR" and to provide a more comprehensive explanation. The new name and explanation is a significant improvement and its concerns related to the second and third modification.

I strongly encourage the Board to use its authority under the FTC Act to prohibit the worst of credit card practices, such as:

1. Universal default or its variant "adverse action repricing"

2. Retroactive application of interest rate hikes

3. Over limit abuses, including the fact that the creditors permit consumers to go over the limit, then charge high fees for additional credit

4. Excessive penalty fees and default rates

5. Abusive late payment rules

6. Payment allocation abuse

7. Payment posting abuse

8. Unilateral changes in terms

The Board has the authority to ban banking practices that are unfair or deceptive under the Federal Trade Commission Act. 15 U.S.C. § 57a(f). It also has authority under TILA to address some substantive abuses, such as payment posting and allocation abuses under Section 1666c. Yet it has taken no action to address these abuses. The Board's failure to act is particularly glaring in light of the preemption of substantive state law protections. Thirty years ago, states protected consumers from abusive banking practices. Today, preemption has eliminated those protections without replacing them with any parallel federal protections.

To the extent that the Board cannot ban certain practices using its FTC Act authority or TILA, we also urge the Board to weigh in with Congress to ask for true reform of the credit card industry. The message should be: pass federal legislation that will protect American consumers from the increasingly unfair, abusive, and virtually unavoidable practices of the credit card industry. Real, substantive limits on the terms of credit, and the cost of the credit, including the interest rate and all fees and charges, must be re-imposed.

I join the Woodstock Institute in its recommendations regarding substantive regulation along the following lines–

1. A floating cap on all periodic interest rates

2. A limitation on fees and charges to an amount the creditor can show is reasonably related to cost.

3. No unilateral adverse changes in interest rates or fees during the contract period

4. A ban on retroactive interest rate increases.

5. No universal default or penalties for any behavior not directly linked to the specific card account at issue.

6. No over limit fees allowed if the creditor permits the credit limit to be exceeded.

7. A ban on repeated or "rollover" late and overlimit fees.

8. No improvident extensions of credit – real underwriting of the consumer's ability to pay should be required.

9. No mandatory arbitration, either for consumers' claims, or for collection actions against consumers.

10. Tougher TILA penalties that provide real incentives to obey the rules.

11. A private right of action to enforce Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive practices by businesses, including banks.

12. Restrictions on marketing credit cards or extending credit to youth.

I urge the Board to use its authority and undertake rulemaking to declare credit card abuses to be unfair practices. For those practices that may require Congressional action, I urge the Board to use its substantial influence to recommend such legislation to Congress.

Sincerely,

Stella J. Adams