City County Credit Union

August 20, 2009

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. R-1364 – The Credit CARD Act of 2009

Dear Ms. Johnson,

This letter is intended to share with you the concerns City County Credit Union of Fort Lauderdale (Credit Union) has with its ability to comply with certain aspects of The Credit CARD Act of 2009 (CARD Act). The Credit Union supported the original intent of the CARD Act, which was to reign in unscrupulous credit card lenders that engage in abusive and predatory practices. Credit unions have historically been the consumer-friendly solution to its members' financial needs. Owned by its members, credit unions place a tremendous value in providing affordable products while maintaining high ethical standards. While the Credit Union supports the original scope of the CARD Act, one particular component has led to a tremendous burden on this credit union and the industry that may ultimately be more detrimental to the member/consumer.

The Credit Union provides a CUNA Mutual approved plan for its open-end loan products. These products are structured as Multi-Featured Open-End Plans (MFOEP) which are used for Auto/Truck Loans, Vacation Loans, Signature Loans, Unsecured Lines of Credit, etc. These products provide unique benefits to credit union members. It is the Credit Union's opinion that these products were **not** taken into consideration at the time the changes were enacted causing a tremendous burden on the industry as a whole.

MFOEP provide the following benefits to members:

1. Choice of due dates to coincide with pay dates.
2. Skip-a-payment option. Ability to skip making a payment during hard-times or seasonal slow periods. This is an excellent feature for farmers, seasonal business owners, and teachers.
3. Payment due date extensions.
4. Products (VSA, GAP, Credit Life & Disability) can be added to a loan at a later date.
5. Products can be waived and/or refunded, which can lower a payment amount.
6. Ready access to loan funds in the future.
7. Single-signature (facilitates remote lending).
8. Easier to modify loans (including changing or releasing collateral or co-signers, lowering rates, changing payment amount, due date, or frequency).
9. Pre-approved auto drafts (members can go shopping with the draft). They know the maximum loan amount up front, which can help with shopping and negotiating price.

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<u>The Issues:</u> Under the Act, creditors must adopt reasonable policies and procedures to ensure that periodic statements for **<u>any</u>** open-end consumer credit account are mailed or delivered at least 21 days before the payment is due in order to be able to charge a late fee, or to otherwise consider the payment late. This 21-day requirement will apply to all open-end consumer credit. This is in contrast to most other provisions of the CARD Act, which are limited to credit cards.

1. **Consolidated Statements** - Credit unions generally provide its members with a consolidated statement that combines information about all the products maintained, including, savings, checking, and loan accounts. Credit card statements are usually separated based on the nature of the information provided. Smaller credit unions usually outsource this process to one of the major servicing organizations, such as, PSCU, First Data, Fidelity Information Services, Inc., etc. Generally, credit union members appreciate and prefer consolidated statements in order to gain a composite of their financial position without reviewing multiple statements. A consolidated statement also reduces the cost of mailing due to the reduction in the number of envelopes used and the amount of postage applied. In order to provide "due date" information and other fields necessary to comply with the CARD Act, for instance on a car loan, the Credit Union may have to unbundle its statements based on loan due dates.

2. **Due Date Freedom of Choice** - The Credit Union allows its members to choose payment due dates, weekly, biweekly, or monthly, often to coincide with when they receive payroll direct deposits. In order to produce a periodic statement 21 days before a due date, a portion of this functionality may need to be abandoned in order to comply with the new provisions of the CARD Act. This change will also affect the finance charges paid by the members that have chosen to pay weekly or biweekly.

The Credit Union is firm in its belief that this change will have quite the opposite effect of the original intent. In particular:

<u>Negative Impact to Member:</u>

- **Re-evaluation of Grace Period** - The law change will likely have an unintended adverse impact on consumers as it could cause many credit unions to re-evaluate the current grace-periods on open-end loans. Currently, most credit unions already include grace periods in their loan processes...often as long as 5-10 days after the payment due date...before considering a payment as late. Though most credit unions will probably not want to shorten the grace period, depending on how the data processing system works, credit unions may not have a choice because that grace period would "flow over" to the next due date.

- **Increase to Late-Payment Fee** - It is expected that the amounts charged for late-payment fees could increase, as fewer late payments are expected in the short term, as well as having an increase in costs due to having money outstanding for which no interest is being charged.

- **End the Use of Multi-Featured Open-End Plans** – End the programs going forward and possibly rewrite existing loans. However, this will inconvenience members who do not understand why their existing loan agreements have to be changed and why there are fewer choices in products.

Negative Impact on Credit Unions:

- Current data processing systems cannot support multiple statement dates, dues dates, payment dates, etc. and will have to be reprogrammed. This will lead to increased expenses, all of which will ultimately pass on to the consumer.
- Increased postage expenses...which will be passed on to the consumer.
- Multiple statements sent to the same member...likely leading to confusion on behalf of the consumer.
- Refinancing of existing open-end loans. Again, many members will not wish to change their existing loan terms. If a credit union were to refinance, it is possible that the lien status of existing loan collateral would be impacted, collateral values may have declined, requalification by members might not be feasible, etc.
- Change existing due dates. This is a manual, very time-consuming, process that may have to be agreed to by members...many of which will not understand why a change is necessary.

Possible Solutions:

- Revise the Act to exclude **all** open-end credit plans. Retain only credit card accounts.
- Exclude open-end programs with more than one payment due within a 30 day period.
- Extend the time period for compliance to July 2010, with the exception of credit card accounts.

Thank you for your time. Please consider the concerns of the credit union industry and this Credit Union asks that the Agency consider the implications on consumers and allow for, at a minimum, and extension of the effective date of the regulation.

Sincerely,

Beverly J. Watts

Beverly J. Watts
Compliance Officer