MICHIGAN CREDIT UNION LEAGUE

Helping Credit Unions Serve Their Members

September 21, 2009

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

Re: Docket No. R–1364

VIA ELECTRONIC MAIL:

Dear Ms. Johnson,

The Michigan Credit Union League (MCUL) appreciates the opportunity to comment on the Regulation Z interim final rule regarding the implementation of the Credit Card Accountability, Responsibility and Disclosure Act (CARD Act). MCUL is a statewide trade association representing 96% of the 335 credit unions located in Michigan. This comment letter was drafted in response to input received from MCUL's member credit unions.

General Statement

MCUL understands that the purpose of the CARD Act was to protect consumers from abusive lending practices. However, whatever good intentions may have motivated the new mandates, the result is that consumers will likely be put in a worse financial position than before these efforts were undertaken. Not only will consumers be required to adjust their budgets in order to pay all of their open-end credit at one time, credit unions (as well as every other lender) will be required to bear costs that will be trickled down to the membership in order for the industry to survive.

Additionally, credit unions, as well as every other credit card lender, may be forced to take measures to avoid some of the requirements in an effort to protect themselves from litigation and increased compliance costs.

General Disclosure Requirements

Periodic Statements

Under the interim final rule, creditors are prohibited from treating a payment as late or imposing an additional finance charge unless the creditor mailed or delivered the periodic statement at least 21 days before the payment due date and the expiration of any period within which any credit extended. This requirement applies to all open-end credit. Creditors are required to adopt "reasonable procedures designed to ensure" that statements are mailed or delivered at least 21 days before the payment due date *and* the expiration of the grace period.

As a result of these provisions, credit unions must now send multiple open-end loan payment statements, as opposed to a consolidated statement that their respective membership prefers. This will increase mailing costs which will be passed down to consumers in the form of higher rates and fees.

Some credit card companies have already responded to the CARD Act by increasing rates and fees. According to Newsmax.com, credit card companies have increased its interest rates, over-the-limit fees, and have begun instituting an annual fee in order to offset the costs of compliance with the new mandates. As the costs of compliance are realized, this trend will only continue until even those who are responsible with their finances are negatively impacted. Given the credit crunch as a result of this economic recession, even responsible consumers will be required to accept higher rates and fees as a result of the compliance costs of these measures.

Additionally, many credit union members prefer to make bi-weekly payments and designate their respective due dates to coincide with their payroll deposits. Prior to this draconian rule, consumers could choose their own due dates. Now, consumers will undoubtedly be required to pay all of their open-end credit debts at one time, often in addition to other large payments such as the mortgage payment. This rule will needlessly cause undue budgetary problems for millions of Americans and will place them at a serious disadvantage financially. Credit unions cannot accommodate various payment due date requests in order to mitigate their respective members' financial burdens. To do so would not only present an operational nightmare, but would drastically also increase costs even further and place credit unions at risk of non-compliance with the requirements of the rule.

At the very least, MCUL supports limiting the provisions relating to periodic statements to credit cards only. Compliance with credit card periodic statements would be relatively easy to accomplish with much less of a negative impact on consumers.

Change-in-Terms Notices

The interim final rule requires creditors to provide consumers with 45 days' advance notice of rate increases and other significant changes to the terms of their credit card account agreements. These changes also require change-in-terms notices to contain a disclosure of a consumer's right to cancel the account.

As one of the exceptions to this 45-day rule includes a change relating to increases in variable APRs, many credit card companies will simply switch to offering variable, as opposed to fixed, rates. While the impact of this result can be avoided by paying off the balance each month, those borrowers who rely on credit cards to assist with everyday living but struggle under the weight of credit card debt (i.e., those the rules were designed to protect) will face the greatest negative impact.

The rule enables consumers to reject a change in terms unless they, among other provisions, make a payment that is more than 60 days late. Given that there may be a data processing glitch that results in a late mailing of a periodic statement, this would result in an operational nightmare. Would the 60 days start over again if a periodic statement was delivered in 20 instead of 21 days? This results in the added incentive on the part of credit card lenders to reduce the credit limit (thereby increasing the odds of over-the-limit income), or even suspending or terminating an account and offering consumers a variable rate plan, as these are all exceptions to the 45-day notice requirement. Though these actions may not be consumer-

friendly, they may be the only way credit card lenders, including credit unions, can avoid litigation and the increased costs of compliance.

To make matters more convoluted, the interim final rule permits creditors to apply the changed term or increased rate to a given transaction that occurs more than 14 days after the notice is provided, even if the consumer rejects the change or increase before the effective date. To facilitate compliance, a new comment states that, if a transaction that occurred within 14 days after provision of the notice is not charged to the account prior to the effective date of the change or increase, the creditor may treat the transaction as occurring more than 14 days after provision of the notice. However, to ensure compliance and avoid an operational nightmare, credit card lenders will do everything in their power to avoid having to provide a 45-day notice in the first place. Again, such actions may not be consumer-friendly, but may be the only way credit card lenders, including credit unions, can avoid litigation and the increased costs of compliance.

Conclusion

MCUL's member credit unions do not support the interim final rule's affect on all open-end credit. Credit union members are satisfied with how their open-end lending transactions are handled. If they weren't, credit unions would not offer services such as consolidated payment statements, bi-weekly payment options, or choices with regard to specific due dates. Credit unions are in the business of responding to the needs of their members. The periodic statement provisions under this interim final rule require credit unions to respond to the requirements of the law at the expense of their membership.

MCUL is certain that the U.S. Congress and the Federal Reserve Board had good intentions in mind when passing these laws and regulations that were designed to be consumer-friendly. However, the result is that consumers will likely be put in a worse financial position than before these efforts were undertaken. Additionally, the entire credit union industry will be required to bear costs that will be trickled down to the membership in order for the industry to survive.

Faced with the issues addressed in this letter, it is the fervent hope of MCUL and its member credit unions that the Federal Reserve Board will re-consider the provisions regarding the implementation of the Act.

MCUL appreciates the opportunity to provide comment on this proposed rule.

Sincerely,

Veronica Madsen
Director of Compliance and General Counsel
MCUL/CUcorp