National Association of Federal Credit Unions
3138 10th Street North ● Arlington, VA 22201-2149
(703) 522-4770 ● 800) 336-4644 ● Fax (703) 524-1082
www.nafcu.org ● nafcu@nafcu.org

January 30, 2004

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

RE: Docket #R-1168; Uniform Standard for Providing Consumer Disclosures, Additional Changes to Regulation Z, and Debt Cancellation and Debt Suspension Agreements

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I am responding to the Federal Reserve Board's (Board) request for comment on the proposed rules establishing a uniform standard among the Board's regulations, additional proposed changes to Regulation Z, and input regarding debt cancellation and debt suspension agreements.

Clear and Conspicuous Standard

The Board is proposing to amend the rule and staff commentary of Regulations B, E, M, Z, and DD by adding a "clear and conspicuous" definition that is substantially similar to that in Regulation P. Specifically, the proposed definition will state that clear and conspicuous means that a disclosure is (1) reasonably understandable, and (2) designed to call attention to the nature and significance of the information in the disclosure. Additionally, the Board has proposed revisions to the staff commentary of Regulations B, E, Z, and DD regarding "other information" to clarify that the clear and conspicuous standard does not prohibit adding to the required disclosures, but suggests that the presence of such information may be a factor in determining whether the standard is met. Finally, the Board proposes to revise the staff commentary of Regulation Z to clarify that the clear and conspicuous standard allows for the use of codes or symbols as long as a legend or description is provided on the disclosure statement.

Overall, NAFCU supports the Board's proposed definition of clear and conspicuous and applauds the Board's efforts to establish uniform disclosure standards

throughout its regulations. NAFCU believes that consumer disclosures should be obvious, clear, and easily understandable. Standardization will not only serve to inform and protect consumers, but should also assist financial institutions with compliance.

While the majority of NAFCU member credit unions who responded to NAFCU support the Board's proposal for "reasonably understandable," "other information," and "the use of codes or symbols" standards, many questions and concerns were raised concerning the "designed to call attention" standard. Many members were concerned that implementing the suggested standards could cause them to incur additional reprinting and extra paper costs if type size and layouts of current disclosures must be adjusted to incorporate the proposed type size and white space. Additionally, some members were concerned that the current model forms, notices and clauses might not sufficiently incorporate the proposed changes and suggest that the Board revise its model forms, notices, and clauses to comply with the standard and then reissue the proposal for another comment period.

NAFCU offers one suggested technical revision to Regulation Z. To provide uniformity with other provisions in the staff commentary of Regulation Z that address the "clear and conspicuous standard" NAFCU suggests that the Board add the following sentence to Appendix K (d)(2)-1: "See section 226.2(a)(27) and accompanying comments."

Finally, in order to provide financial institutions adequate time to make any necessary revisions to disclosures and to reduce the financial burden of reprinting already-existing disclosures, NAFCU strongly encourages the Board to allow for an extended implementation period of at least 18 months.

Additional Changes to Regulation Z

The Board is proposing to make additional changes to Regulation Z by adding an interpretive rule of construction to state that the word "amount" represents a numerical amount throughout Regulation Z. NAFCU supports this proposed revision as clarifying the meaning and usage of the word "amount" should serve to alleviate confusion by consumers and creditors alike.

The Board also proposes to update the staff commentary to provide guidance on consumers' exercise of the right to rescind certain home-secured loans. Specifically, the proposed rule (1) addresses situations in which the creditor fails to provide the required form or designate an address for sending the notice, and (2) revises staff commentary to specifically state that a consumer's right to rescind is not effected by the rescission procedures or modification of those procedures by a court.

With respect to the first issue regarding the address for sending notice, the Board's proposed comment would address situations when a consumer sends the notice to someone other than the creditor or assignee, such as a third-party loan servicer acting

as the creditor's agent. The proposed comment would state that, when the creditor fails to provide the consumer with a designated address for sending the notice of rescission, and the consumer sends the notice to someone other than the assignee, the consumer's notice of rescission may be effective if, under the applicable state law, delivery to that person would be deemed to constitute delivery to the creditor or assignee. NAFCU supports this change; however, some NAFCU member credit unions have expressed concern that there may be situations in which state law fails to address or does not adequately address the issue. With respect to the second issue regarding effect on right to rescind, NAFCU supports the Board's proposed revision clarifying that neither rescission procedures nor modifications of those procedures by a court affect the consumer's substantive right to rescind.

Finally, the Board proposes several technical revisions to Regulation Z. NAFCU does not foresee any conflict with any of the proposed technical revisions and supports these proposed changes.

Debt Cancellation and Debt Suspension Agreements

Lastly, the Board is requesting information regarding debt cancellation and debt suspension agreements. Under a debt cancellation or debt suspension agreement, a creditor agrees to cancel, or temporarily suspend, all or part of the borrower's repayment obligation upon the occurrence of a specified event, such as death, disability, or unemployment. According to the Board, the sale of products in lieu of credit insurance has been increasing and creditors have been offering expanded coverage, for example, to suspend repayments obligations for life cycle events such as marriage or divorce. In response to requests from industry representatives for additional guidance concerning these agreements, the Board is soliciting information and feedback regarding both the operational and regulatory aspects of debt cancellation and suspension agreements.

Under Regulation Z, generally fees for credit protection programs written in connection with a credit transaction are finance charges. But, under §§ 226.4(d)(1) and (3), some fees may be excluded from the disclosed finance charge if the required disclosures are made and the consumer affirmatively elects the optional coverage in writing. The Board inquires whether there is a need for additional guidance concerning the applicability of those provisions to certain types of coverage now available. NAFCU believes that the current required disclosures under § 226.4(d)(1) and (3) are adequate for products associated with voluntary debt cancellation fees and does not suggest any revisions to Regulation Z at this time.

Under § 226.9(f), a credit card issuer must notify a consumer before changing his or her credit insurance provider. Card issuers need only advise consumers that they may opt out of the new coverage. The Board asks whether it should interpret or amend § 229.9(f) to address conversions from credit insurance to debt cancellation or debt suspension agreements and, if so, if there is a need to address conversions other than for credit card accounts. NAFCU would support the Board interpreting or amending §

226.9(f) to address conversions from credit insurance to debt cancellation or debt suspension agreements and other conversions that are not for credit card accounts.

NAFCU would like to thank you for this opportunity to share its views on this proposed rule. Should you have any questions or require additional information please call me or Kimberly Dewey, NAFCU's Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 268.

Sincerely,

Fred R. Becker, Jr.
President/CEO

FRB/ksd