THE FINANCIAL SERVICES ROUNDTABLE
Impacting Policy. Impacting People.

December 21, 2005

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

Re: Truth in Lending Regulation Z Advance Notice of Proposed Rulemaking Docket No. R-1217 Federal Register

Dear Ms. Johnson:

The Financial Services Roundtable represents 100 of the largest financial services companies providing banking, insurance, and investment products and services to the American consumer. The Roundtable member companies provide the fuel for America's economic engine, accounting directly for $18.3 trillion in managed assets, $678 billion in revenue, and 2.1 million jobs.

Overview

Public Law 109-8, the Bankruptcy Abuse Prevention and Consumers Protection Act ("BAPCPA"), contains amendments to TILA that addresses open-end credit accounts, requiring disclosures on periodic statements and on credit card applications and solicitations. The Board should be flexible and view the BAPCPA TILA amendments in the context of other Regulation Z disclosures and implement the amendments so that consumers receive the required information in an effective manner. Lengthy, complicated disclosures will confuse consumers, frustrating Congress' intent in BAPCPA.

The Board should balance disclosure requirements with compliance costs which may be passed on to consumers. Congress did not intend to require complex and confusing disclosures that contribute little to consumer literacy but which may increase costs for consumers.

FSR asks that the Board provide its table or estimate in as simple a manner as possible. Congress clearly intended to lessen the burdens on lenders by option directing the Board to provide a general table in lieu of a creditor-generated table.

Further, the Board should recognize that any creditor-generated figure may not be precise because consumer behavior and other factors unknown to the creditor could affect the calculation. To encourage creditors to generate BAPCPA more precise and specifically-tailored calculations, the Board should exercise discretion to implement the BAPCPA amendments in a flexible way.

Responses to specific questions

Q 59-61 Exemptions

FSR urges the Board to exempt HELOCs. Legislative history does not indicate to cover HELOCs. TILA already prohibits changing terms. Thus, HELOCs are dissimilar to credit cards.

FSR suggests that the Board limit the disclosures to those who pay the minimum at least three times consecutively. The legislation was directed to the small minority of consumers who consistently only pay the minimum who may not understand the financial risks of consistently only paying the minimum.

Q 62-64 Examples

The Board should adjust the 17 percent APR in the example and use the current average for revolving loans. The Board should thereafter make periodic adjustments but limit the frequency of such adjustments.

Should the Board apply the disclosures to HELOCs, FSR recommends using percentages, APRs and balance appropriate to HELOCs.

Q 76 Assumptions

The Board should balance the utility of any disclosure with the significant risk that causing a disclosure to be too long and difficult for the average consumer to understand will confuse consumers. Clearly, some assumptions, such as the assumption that there will be no further purchases, should be disclosed and described. However, other less critical assumptions should be referred to only generally or omitted.

Q 77-79 Actual Number

A Board-generated repayment period will be sufficient to achieve the Congressional policy underlying BAPCPA. In order to encourage creditors to calculate a more customized estimate, the Board should permit lenders to make reasonable assumptions about account activity such as no new purchases and on-time payments.

Because, for any account, a truly precise actual number will vary according to factors not known or knowable to the creditor, they should permit the creditor to make such assumptions as are necessary.

Finally, the Board should allow for tolerances to account for rounding discrepancies, authorizations and payment posting timelines, and other factors that could affect the feasibility of making required calculations.

Q 83-84 Clear and Conspicuous

FSR does not believe a type size requirement is appropriate. The result of such a mandate could be to minimize other important disclosures.

The Board should also provide model language for disclosures related to the Board-generated number and the creditor-generated number. The Board should also provide model text regarding the disclosure assumptions related to calculating the repayment period.

Q 88-92 Introductory Rates

The Board should specify one document as the "first mention." This document should be the same as a document described in 16. D.F.R. Section 642.2(b). Regulation Z as current drafted, coupled with the OCC guidance, ensures that the "triggers" are appropriately disclosed.

Q 93-96 Internet Solicitations

Internet disclosures should be considered "readily accessible" if disclosed on the webpage or if a link is displayed on the webpage. Given the fast-paced nature of technical innovation on the Internet, specific rules could quickly become obsolete or hinder innovation. Thus, FSR suggests the Board not issue special mandates for Internet offers of credit or applications.

Q 97-101 Late Payment Disclosures

Some state laws may specify when a late payment fee can be charged, which may be after the due date.

FSR would not support a requirement to add disclosures regarding penalty rates. Congress did not in BAPCPA create such a disclosure requirement.

Q 102-105 Home-Secured Loan Disclosures

FSR recommends that the Board only require the disclosure for advertisements that target home equity loans that are intended to exceed the fair market value of the home. Without this limitation, the requirement would apply to all mortgage advertisements.

In determining whether a mortgage loan "may exceed" a dwelling's fair-market value, the creditor need only consider the initial amount of the loan and property value at the time of the loan. The Board should also specify that creditors can rely on any reliable source to determine fair market value.

FSR appreciates the opportunity to provide our perspective on BAPCPA. If you have any questions, please do not hesitate to contact me at 202 289-4322.

Best regards,

Steve Bartlett

Steve Bartlett
President and CEO