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Subject: Truth in Lending

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Proposal: Regulation Z - Truth In Lending
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Comments:

@@@Re: Docket R-1217, Advance notice of proposed rulemaking, Open-end credit rules

Q2, Q3, Q10, Q11, Q12, Q23, Q24, Q29 and Q30. Account-opening disclosures. Very few people begin to read the disclosures they receive and an extreme few continue to read them after getting started. This is true whether the disclosures relate to credit cards, debit cards, car loans, mortgage loans, insurance, or privacy matters (financial, medical care, or whatever). Perhaps it would make sense to provide a simple, one-page disclosure of basic elements and require a more detailed explanation to be available for those who want to read more and who have sufficient interest to specifically request it.

a. Simple one-page disclosure. This one-page disclosure would include only the most basic elements determined through consumer "focus groups" or other means of obtaining input from typical consumers (and opportunities for comment). At the risk of prejudicing a good idea, but wishing to acknowledge the usefulness of the "Schumer box" concept, this might result in an expanded "Schumer box." The disclosure should be strictly prescribed (including type size requirements for printed media) and easy to complete. One of the design objectives should be that each element disclosed should be precisely determinable, so that no reasonable person responsible for filling in any blanks, using the skills of a specified grade level of proficiency (such as eighth grade English and arithmetic), would find the proper entry uncertain or debatable. For those who have had sufficient interest to read through the simplified disclosure, the end of the disclosure should include an invitation to re

quest additional information, with a snail mail address, telephone number, and website address for access, or a cross-reference to any applicable consumer contract separately given to the consumer if the contract contained the additional information.

b. Detailed explanation. The detailed disclosure, which would only have to be provided to consumers who specifically request it, might provide

more detailed disclosures along the line of the disclosures currently required under Regulation Z, if determined useful and effective. As under the current rules, this disclosure could be included in the applicable consumer contract. As with the one-page disclosure, the required content should be determined through consumer focus groups (and opportunities for comment), strictly prescribed and easy to complete, with the same design objective of precise determinability. Perhaps Regulation Z could address the possibility that the goal of precise determinability might not have been attained in a particular instance, by providing a retrospective and retroactive safe harbor for any disclosure made in that instance.

This suggested approach would require a wholesale review of Regulation Z, which I believe the Acting Comptroller of the Currency recently encouraged. Many of the questions included in the advance notice of proposed rulemaking appear to presume minor changes only, without any basic alteration of philosophy. I think the Acting Comptroller is correct when she suggests rethinking the purpose of the Regulation Z disclosures. Yes, the statute requires certain things to be done, but the focus should be on what is effective and useful to consumers.

Lest anyone fear the suggested process might result in extraordinarily limited disclosure requirements, a doubtful result, it should be remembered that many considerations outside the Truth-in-Lending Act constrict creditor options. A creditor who fails to adequately describe the terms of an account (including but not limited to the numerous methods of calculating finance charges, payment allocation methods, and change in terms provisions) in its account agreement takes imprudent risk, as its plaintiffs and their attorneys are certain to point out through the use of common law and statutory remedies other than those provided by the Truth-in-Lending Act.

Q4, Q6, Q25, Q31 and Q35. Statement disclosures. Required statement disclosures also should include only the most basic elements determined through consumer focus groups (and opportunities for comment). The required disclosures should be strictly prescribed (including type size requirements for printed media) and easy to complete. One of the design objectives should be that each element disclosed should be precisely determinable, so that no reasonable person responsible for creating a disclosure, using the skills of a specified grade level of proficiency (such as eighth grade English and arithmetic), would find the proper disclosure uncertain or debatable. Consumers, if they are interested, should be able and entitled to rely on the detailed account-opening disclosures and consumer contracts for additional details.

Q5, Q13, Q14, Q15, Q16, Q17, Q18, and Q21. Fee description. Fees should be grouped together in categories, as determined useful by consumer focus groups (and opportunities for comment). One of the objectives should be that any imaginable fee, however described by a creditor, should clearly fit within one and only one of the prescribed categories. Perhaps Regulation Z could specify that if a creditor were not able to determine the appropriate category, the creditor could not impose the fee until the Federal Reserve Board designated the appropriate category, either by written approval or regulatory amendment.

Q7, Q8, Q9, Q10, Q11, and Q12. Solicitation and application disclosures. In essence, the same suggestion made above for account-opening disclosures applies to solicitation and application disclosures. The suggestion would be to provide a simple, one-page disclosure of basic elements and require a more detailed explanation, if determined effective and useful, to be available for those who want to read more and who have sufficient interest to specifically request it.

c. Simple one-page disclosure. This one-page disclosure would include only the most basic elements determined through consumer "focus groups" or other means of obtaining input from typical consumers (and opportunities for comment). The disclosure should be strictly prescribed (including type size requirements for printed media) and easy to complete. One of the design objectives should be that each element disclosed should be precisely determinable, so that no reasonable person responsible for filling in any blanks, using the skills of a specified grade level of proficiency (such as eighth grade English and arithmetic), would find the proper entry uncertain or debatable. For those who have had sufficient interest to read through the simplified disclosure, the end of the disclosure should include an invitation to request additional information, with an address, telephone number, and website address for access.

d. Detailed explanation. This disclosure, which would only be provided to consumers who specifically request it, could provide more detailed disclosures along the line of the disclosures currently required under Regulation Z, if determined useful and effective. As with the one-page disclosure, the required content should be determined through consumer focus groups (and opportunities for comment), strictly prescribed and easy to complete, with the same design objective of precise determinability. Perhaps Regulation Z could address the possibility that the goal of precise determinability might not have been attained in a particular instance, by providing a retrospective and retroactive safe harbor for any disclosure made in that instance.

Q37 and Q53. Tolerance and de minimis exceptions. If the above-stated objective of precise determinability were attained, the issues of tolerance and de minimis exceptions should be irrelevant. In the optimistic spirit required for the recommended approach, I think discussion of these issues is premature.

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