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March 23, 2005

BEST IMAGE AVAILABLE

Jennifer L. Johnson, Secretary
Board of Governors
Federal Reserve System
20th and Constitution Ave., N.W.
Washington, DC 20551

By email: regs.comments@federalreserve.gov or go to
the FRB website to comment
By fax: 202-452-3819

Re: Comments to Docket No. R-1217, Regulation of
Credit Cards

Dear Ms. Johnson,

We are writing to comment on the Federal Reserve Board's recent advance notice of proposed rulemaking (ANPR) on open-ended credit, specifically on the regulation of credit cards.

EDGEMONT NEIGHBORHOOD COALITION, INC.

Edgemont Neighborhood Coalition, Inc. is a nonprofit community organization located at 919 Miami Chapel Road, in Dayton, Montgomery County, Ohio. The group consists of residents of the Edgemont neighborhood, a low-income African American neighborhood in Dayton, who have associated in order to foster pride in their neighborhood and address the issues of crime, youth and adult joblessness, inadequacy of educational opportunities, affordability of utilities, and business and community development.

One issue of importance of the Edgemont Neighborhood Coalition, Inc. has been the availability of affordable financial services in the community. Edgemont has been active in Community Reinvestment Act activities in order that residents have access to mainstream financial services at mainstream prices, and not be relegated to high-cost "fringe lenders" such as payday lenders, "subprime" mortgage lenders, rent-to-own vendors and pawnshops.

In furtherance of these goals, Edgemont has commented on proposed regulations by federal agencies and has

appeared as amicus curiae in court cases involving payday lending and predatory mortgage lending. Edgemont has been a party in proceedings in the Public Utilities Commission of Ohio, and has also cosponsored conferences concerning payday lenders and their effects on the community. Edgemont supports the work of the National Community Reinvestment Coalition and of the Community Reinvestment Institute Alumni Association here in Dayton.

In addition to being a community organization, Edgemont Neighborhood Coalition, Inc. functions as a small business, operating an office, community garden and community computer center.

THE FEDERAL RESERVE NEEDS TO TIGHTEN CONTROLS
AND IMPROVE DISCLOSURES ON CREDIT CARD DEBT

Truth in Lending was enacted because lenders used clever stratagems to persuade people to borrow without understanding the terms and consequences. The realities of today's credit market and the debt explosion that has resulted indicate that present laws and disclosure requirements are not adequate to protect the public.

We feel strongly that the current regulatory environment for credit card marketing, implementation, and disclosure of terms is dangerous for consumers. The credit card industry is not adequately regulated and has abused its position. The Federal Reserve Board should use the powers it has, and approach Congress for more powers, to level the playing field and prevent abusive practices by credit card lenders.

Today, there is more than \$800 billion in outstanding revolving credit. The amount of credit card debt in America has almost quadrupled since 1981. The average American household with a credit card carries \$14,000 in credit card debt, the highest amount ever. Credit card companies start by flooding consumers with billions of credit card solicitations, offering credit to just about anyone and heavily marketing to young consumers such as college students. Young people are being addicted to credit at an early age due to card solicitations. These lenders extend credit to anyone

who has a decent credit score (or offer predatory subprime cards to those who do not) without actually assessing the consumer's ability to repay the amount of credit offered.

Credit card lenders have also set up such an intricate trap of penalties and fees that many Americans find it hard to pay off their balances. Some of their tactics - whether it be raising rates to those already deep in debt, lowering minimum payments so that consumers revolve more debt, or aggressively soliciting people with poor or unestablished credit history - are particularly destructive.

Furthermore today's world requires credit cards to rent cars, reserve travel, purchase on the internet and conduct what are now ordinary daily transactions. Even if someone wants to do without credit cards, they can not.

Credit card debt leads to other debt, particularly predatory mortgage lending, as people are encouraged to take out subprime mortgage loans to pay off their credit cards. Recent studies of foreclosures in Pennsylvania and North Carolina show that at least 20% of subprime mortgage loans taken out at a particular time result in foreclosure and most likely the loss of a home. These studies are available at [http://www.banking.state.pa.us/banking/lib/banking/robert/statewideforeclosure/statewide forclosure report.pdf](http://www.banking.state.pa.us/banking/lib/banking/robert/statewideforeclosure/statewide%20forclosure%20report.pdf); [http://www.banking.state.pa.us/banking/lib/banking/robert/statewideforeclosure/mortgage forclosure filings.pdf](http://www.banking.state.pa.us/banking/lib/banking/robert/statewideforeclosure/mortgage%20forclosure%20filings.pdf); <http://www.kenan-flagler.unc.edu/assets/documents/foreclosurerelease.pdf>

Many subprime mortgage loans contain predatory features. Ohio leads the nation in mortgage foreclosures. Montgomery County, Ohio, where we are located, leads the state in mortgage foreclosures. When homes are foreclosed on, individuals, neighborhoods, and communities are destroyed. To keep people from losing their homes, it is urgent to reign in the abusive credit card debt that may lead to a predatory loan.

The credit card industry has persuaded Congress to make bankruptcy relief more difficult to get, and expects to make more profits as a result. This makes it more important that people not be trapped in debt they can not get out of.

The debt explosion affects other areas of social policy. For instance the debate about Social Security and retirement often assumes that people can and should save for retirement. However savings are impossible for people who are overwhelmed with debt, and are paying high interest and fees with money policy makers expect them to be saving. In addition, the lack of adequate national health insurance leaves many senior citizens using credit cards to pay for medical care and prescription drugs. At the same time we are told that the economy depends upon people spending borrowed money in order to keep everyone employed. If so, it is most urgent that the Federal Reserve remove abusive practices from the lending marketplace.

SPECIFIC CHANGES NEEDED

In particular re request that the Board focus on these areas:

Abusive Fees: Today a high percentage of bank profits come not from interest but fees and charges. Almost all cards issued by major banks have late fees, over-the-limit fees, cash advance fees, and balance transfer fees; other cards may also have annual fees, credit-limit-increase fees, return item fees, and currency conversion fees. These fees have increased beyond reasonable levels. Banks have manipulated their grace periods to make more payments late. This gives these lenders incentives to deceive and manipulate to increase their profits. Also in this category are "penalty APRs" charged when a payment is late or a limit exceeded.

Abusive fees should be curbed. Banks should make their money from the interest they charge, and penalty fees should be revenue neutral, that is they should only compensate the bank for additional expenses and not be a source of profits in themselves.

Realistic APRs. Presently the disclosed APRs are inaccurate bait for the higher costs and fees that follow. The Federal Reserve should require that fees and penalties to be counted in the APR, which is supposed to measure the actual bottom line rate that the lender is charging.

Payment Allocation and Late Payments: In today's credit card market, a single card may have multiple APRs: for example, one rate for purchases, a higher rate for cash advances, a lower rate for balance transfers, and so on. Furthermore, credit card providers may offer promotional "teaser" APRs, but the promotion may apply only to one of these several rates. Moreover, banks allocate a consumer's payment first to the lowest-rate and then to high-rate balances to maximize their finance charge income. This can result in abusive late payment charges. The Board has the opportunity now to rule against both deceptive payment allocation as well as exploitative cut-off times.

Universal Default: Many banks have started using "universal default," a process in which they routinely review a consumer's credit score and reserve the right to increase his/her rate upon a late payment with any creditor. Thus, for example, if a consumer is late once with Bank X, Bank Y could raise its rate, even if (s)he has never missed a payment with Bank Y. Often, the rate skyrockets to the default rate, which can be anywhere from 25-30%. Such exorbitant rates will send many cardholders into a downward spiral of debt. This practice should be prohibited.

Changes in Terms. All of the major credit card lenders have slipped in charge in terms provisions that allow them to change at will any aspect of a consumer's credit card account, including raising the APR, adding new fees, raising existing fees, lowering credit limits, and shortening the grace period. This is the only product in America where the seller can change the terms of the bargain after the sale is made, defying traditional contract law. In addition, unilateral change-in terms are unfair and undermine the whole concept of comparison shopping. What is the use of being a savvy consumer -- reviewing disclosures and comparing terms, - if a credit card company can

change any of those terms with 15 days notice? As one court has described it, change-in-terms provisions create "an Orwellian nightmare, trapped in agreements that can be amended unilaterally in ways they never envisioned."

The present structure also encourages "bait and switch" tactics by lenders. Currently, Regulation Z stipulates that advance notice is not required if a rate is increased to default or delinquency. The Board should prohibit these bait and switch tactics altogether. At the least it should amend Regulation Z to require banks to give 60 days or more advance notice of a change in terms of the loan. This notice should be in large readable type with the attention called to it, much like the "Schumer Box."

Solicitations. Lenders use solicitations as bait to entice consumers, and then switch the terms. To assist consumers in deciphering the terms of their credit cards, we urge the Board to require use of an improved Schumer box at every stage of the credit card process, including initial solicitations, disclosures, periodic statements, and change in terms notices. This will help a consumer know whether the credit card she received from the lender has the same terms that were advertised in the solicitations.

Minimum Payments. Lenders set minimum payments at tiny amounts, which encourage overspending and takes consumers decades to pay off credit card debt. This also generates hundreds if not thousands of dollars in finance charges for the lenders. In Closed End credit, the lender must disclose the "Total of Payments" which may cause the equivalent "sticker shock" in a consumer who sees the bottom line of what this loan will cost. Credit card borrowers do not get to see this. The Federal Reserve should issue a similar rule concerning the expected total of payments and time until payoff if the borrower only makes a minimum payment.

THE FEDERAL RESERVE SHOULD TAKE THE LEAD AND
ASK CONGRESS FOR LEGISLATION TO CURTAIL
ABUSIVE CREDIT CARD LENDING PRACTICES

While clear and inclusive disclosures are a necessary reform to protect American consumers from credit card abuse, they will never fully do the job. For that, we need a new federal law regulating credit card terms. We request that the Board accompany its regulatory changes with a strong recommendation to Congress. The message should be: pass federal legislation that will protect American consumers from the increasingly unfair, abusive, and virtually unavoidable practices of the credit card industry. Real, substantive limits on the terms of credit, and the cost of the credit, including the interest rate and all fees and charges, must be re-imposed. We recommend substantive regulation along the following lines-

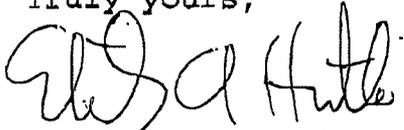
- A cap on all periodic finance charge, for example, prime plus 10%.
- A cap on all other charges, whether considered a finance charge or not, to an amount the card issuer can show is reasonably related to cost.
- No unilateral change in terms allowed.
- No penalties allowed for any behavior not directly linked to the specific card account at issue.
- No improvident extensions of credit - real underwriting of the consumer's ability to pay should be required.
- No mandatory arbitration, either for consumers' claims, or for collection actions against consumers.
- Meaningful penalties for violating any substantive or disclosure rules which sting the issuer sufficiently to provide real incentives to obey the rules.
- A private right of action to enforce Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive practices by businesses, including banks.

CONCLUSION

The Federal Reserve Board has a unique and critical role in how one of the most prevalent forms of

consumer credit is regulated. It could take the easy road and simply tweak the TILA regulations for open end credit, essentially maintaining the current uneven playing field between a giant, well financed credit industry and individual consumers. It could take the low road, and bow to heavy pressures from this powerful, well-connected industry and make an already intolerable situation for American consumers, much worse, by reducing open end protections under TILA. Finally, it could take the high road and make serious changes in the regulations as permitted by current law to provide some balance to the current regulatory structure, as well as encourage Congress to make more significant statutory changes to protect individual consumers, facilitate the reduction in household debt and the increase family savings. In the interests of the American consumer, and the future of the American economy, we urge the Board to do the latter. Thank you for your attention.

Truly yours,



Stanley A. Hirtle
Attorney for Edgemont Neighborhood Coalition

cc: Barbara Hurt: Edgemont Neighborhood Coalition