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March 28, 2005

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
Attention: Docket No. R-1217

Re: Request for Public Comment an Advance Notice of Proposed Rulemaking (ANPR) to Commence a Review of the Open-End Credit Rules of the Board's Regulation Z, which implements the Truth in Lending Act

Dear Ms. Johnson:

The following comments are provided on behalf of Comerica Incorporated, a $52 billion bank holding company located in various states including California, Florida, Michigan and Texas. Comerica appreciates the opportunity to comment on this ANPR.

Background

The Board has published for public comment an advance notice of proposed rulemaking (ANPR) to commence a review of the open-end rules of the Board's Regulation Z, which implements the Truth in Lending Act (TILA).

TILA, enacted in 1968, was substantially revised by the Truth in Lending Simplification Act of 1980. Regulation Z was later amended to implement the new law that went into effect in 1982. Since then, the law has not been reviewed in its entirety, although much of it has been reviewed to implement new legislation, in response to congressional requests for reports, in individual rulemakings, or pursuant to public hearings. The Official Staff Commentary is typically updated annually.

These comments are in response to the Board's request for information regarding the aforementioned ANPR.

Q1: Scope of the Review

We commend the Board's efforts in taking on the monumental task of conducting a long overdue complete review of this regulation. Careful consideration should be given to how this review process is managed to ensure that it is carried out in the most time efficient and cost effective manner possible. Reviewing provisions that apply to both closed end and open end credit in the initial stages of the review may be one way to accomplish this.

Many financial institutions will find it challenging to make these changes as budgeting will be substantial for information system resources to make updates on multiple loan processing systems and product lines.

Another potential issue that the Board and the financial industry should be concerned about is how the consumer will react to these changes. Many consumers do not know the difference between open end and closed end credit nor do they know the difference between a finance charge and a settlement fee. The number of revisions that potentially could be adopted is staggering. We ask the Board to take into consideration how these revisions are introduced and assimilated by the industry and consumers. The training needs of both will be substantial.

I. Format of Disclosures

Q2 - Q3: Account Opening Disclosures

The staff's suggestion of providing the consumer with a one page "executive summary" to make the disclosures easier to follow is admirable, but may actually provide more harm than good. Adding an additional document to a package of disclosures would only continue to add to the information overload that many consumers are already experiencing.

In addition, Comerica's Legal and Compliance departments advocate using a minimum 8 point font on all disclosures printed on paper that measures 8½ x 11 inches or less to ensure that the information is presented in a clear and conspicuous manner. We would also suggest that the font size be proportionally increased on paper that measures more 8½ x 11 inches to make it easier for consumers to navigate. Using bold print for section headings and key terms or words that need to be emphasized should also make it easier for consumers to read and understand account opening statements.

However, in the end, despite the industries best efforts to inform and educate consumers, the consumer has to share in this responsibility and be an active participant in this process. It can be argued that the consumer also has an obligation to review the disclosures provided to ensure the success of these efforts.

Q9: Subsequent Disclosures

The cost that would be associated with linking subsequent disclosures to the account opening disclosures could be significant. The problem lies with the customers who do not retain their account opening disclosures. Effectively communicating a change in terms to these customers in our current business environment would be challenging and costly.

A possible technological solution would be to include a web link where a consumer could go to obtain a copy of their account opening statements. However, the creation and maintenance of such a solution could also prove to be costly.

Another possible solution would be to include a clause in large bold print in the account opening disclosures advising the customer to retain the disclosures as they may need to refer to it when ever there is a change in terms.

II. Content of Disclosures

<u>Q21 – Q22: Over the Credit Limit Fees</u>

It has been our practice here at Comerica not to impose a fee on a continuing basis whenever a customer continues to remain over their credit limit for multiple billing cycles. There have been circumstances in which a customer has drawn against the entire line on their initial advance and found themselves having to pay an “over limit” fee the next month because the interest accrued pushed them over their credit limit.

However, the matter becomes more complicated when this scenario takes place at a financial institution that does not follow this practice. This may be due to their credit policy or a result of system constraints that would require significant modifications to prevent this situation from occurring. A customer who makes the minimum payment requested will find themselves being assessed an over limit fee multiple times because the minimum payment is less than the combined finance charge and over limit fee assessed in the prior month.

<u>Q31 – Q33: Minimum Payments</u>

Any effort to provide disclosures that would accurately inform consumers on the length of time that it would take to pay off a loan making only the minimum payment would be futile. This assumption does not take into consideration that subsequent advances may be taken and potential changes in account terms.

The staff and the financial industry may need to look outside of the “box” for a potential solution to this need. One method to reach more consumers might be to offer on-line calculators that have this type of logic built in. These calculators could be housed on the Federal Reserve Board’s website under “Consumer Information”. The consumer would be prompted by the program to input the numbers needed to make a calculation. This approach could prove to be beneficial in that it does not require staffing and the calculator would be accessible at the consumer’s convenience.

III. Substantive Protections

Q44: Accessing Credit Card Accounts

There are three major areas of concern that we ask the Board to consider in determining how convenience checks should be treated and what protections should be offered to the borrower.

1. The first concern is in regards to limited liability. Changing the Regulation Z rules regarding the treatment of convenience checks would be in conflict with current state Uniform Commercial Code (UCC) law, which contains its own provisions relating to liability on negotiable instruments.

2. Lenders save time and reduce risks by charging disputed transactions back to the merchant who submitted the charge. If the Regulation Z credit card rules will apply to checks, a lender could not charge a disputed item back to the payee. The lender’s risk for this type of access device would increase significantly.

3. Extending the prohibition against creditor offsets to these types of transactions clearly was not intended to be covered by this rule.

Q47 – Q51: Prompt Crediting of Payments

This is an issue that many creditors would probably like to shy away from knowing that this is significant source of income. However, there are times in which the industry needs to monitor itself to minimize future potential consumer and regulatory scrutiny. This may be one of those instances in which the industry may want to take the initiative in making this change instead of being pushed by consumer advocates. It is well known that the cutoff hours for posting a payment vary greatly throughout the industry, sometimes at the expense of the consumer, in the form of incurring an extra day of finance charges or having a late fee assessed.

Today's technology allows clearinghouses to clear checks electronically. Furthermore, the proportion of consumers who make their payments on-line or by phone has risen dramatically. Due to the varying processing systems used throughout the industry, suggesting a rule that requires creditors to credit payments on the date in which they are received regardless of the time, may be a bit overly burdensome.

However, adopting a mandated time frame (e.g. 3 – 5 p.m. for checks and 6 – 8 p.m. for electronic payments processed in the creditor's time zone) may be a more realistic approach. This time is late enough in which a customer could submit a payment for same day credit and would minimize the potential loss of income to the creditor.

IV. Additional Issues

Q58: Reviewing Other Aspects of Regulation Z

We ask that the Board take this opportunity to address concerns raised about lack of uniformity due to state law differences.

Intrastate banking laws have changed since this regulation was last reviewed. Banks are now banking in several states under one charter and lenders are having a difficult time staying abreast of the various state interpretations. For example, under Michigan state law, the term "refinancing" is interpreted differently than it is defined under Regulation Z.

By adopting a policy of relying on the Board's interpretation of a term or event, the number of Regulation Z violations could be reduced.

V. Closing

In closing, we would like to thank the Board for providing a forum to discuss our concerns and provide potential solutions.

Sincerely,

C. Vance Borngesser
Vice President
Corporate Legal

Bonnie G. Cohn
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