



March 29, 2005

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

Docket No. R-1217

Re: Truth in Lending
69 FR 70925 (December 8, 2004)

Dear Ms. Johnson:

America's Community Bankers (ACB)¹ is pleased to comment on the Advance Notice of Proposed Rulemaking (ANPR) issued by the Board of Governors of the Federal Reserve System (Federal Reserve) regarding Regulation Z, which implements the Truth in Lending Act.²

The Federal Reserve is commencing a multi-year review of Regulation Z, beginning with the rules for open-end credit accounts that are not home-secured. The Federal Reserve has specifically requested comment regarding the format of open-end disclosures, the content of the disclosures, and the substantive protections provided under the regulation.

ACB Position

ACB strongly supports efforts to better inform consumers about the cost of credit while reducing regulatory disclosure burdens on community banks. It is important to develop a framework that explains credit terms in a way that is meaningful and understandable to consumers but does not impose unnecessary regulatory costs or litigation risk on community banks. We support the multi-step approach that the Federal Reserve has outlined for the comprehensive review of Regulation Z.

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² 69 Fed. Reg. 70925 (December 8, 2004).

Improving consumer financial literacy is a fundamental policy position of ACB. ACB members are community-based lenders dedicated to strengthening America's communities by meeting the financial needs of customers fairly and efficiently. We believe that an informed, educated consumer is better able to make financial decisions and avoid predatory lenders and other unscrupulous providers of financial services.

We are hopeful that this review of Regulation Z will benefit community banks and their customers. Nevertheless, we are concerned that a dramatic regulatory overhaul will be very costly and will unleash a torrent of uncertainty and litigation. As a result, we urge the Federal Reserve to proceed cautiously in its review and to continue to receive input from financial institutions, credit card processors, agent banks, and consumers.

ACB strongly believes that any revisions to Regulation Z must outweigh the burden of implementing those changes. At a time when community banks are struggling to meet a myriad of new regulatory requirements, any amendments to Regulation Z must be meaningful for community banks and consumers alike.

Scope of the Review (Question 1)

ACB agrees that Regulation Z should be reviewed in phases. Regulation Z is lengthy and complex. We believe that reviewing the regulations governing different consumer loan products separately will make the review and comment process more manageable for the Federal Reserve and its regulated entities.

Consumer Disclosures

We urge the Federal Reserve to use this review of Regulation Z to simplify the open-end credit disclosure process for banks and consumers. The Truth In Lending Act was enacted to help consumers 1) comparison shop and 2) make informed use of credit. However, the current regulatory regime and ever-present threat of legal action encourage financial institutions to "over-disclose."

Financial institutions devote precious compliance resources to meet regulatory requirements for disclosures that consumers do not read. Consumers do not need additional information; they need *better* information. As a result, the Federal Reserve should not institute additional information requirements in the name of "disclosure."

Schumer Box (Question 7 and 8). ACB supports the concept of the "Schumer Box." We believe that its tabular format highlights key account information that consumers use to comparison shop, including the card's annual percentage rate, annual fee and grace period.

Creditors may disclose balance transfer fees and cash advance fees in the Schumer Box or in another conspicuous location. Because balance transfer and cash advances have become a standard credit card feature, it is important that associated fees be grouped together and disclosed in a prominent location. While we believe that grouping fees

may be helpful, we are concerned that including too much information within the Schumer Box runs the risk of creating the same over-disclosure problem that currently exists for account opening disclosures. As a result, we encourage the Federal Reserve to conduct field testing to determine whether including all credit card fees in the Schumer Box would help consumers compare credit products.

We do not believe that it is necessary or beneficial to require institutions to describe terms that do not help consumers comparison shop. In the context of credit card products, community bankers believe that consumers care about two things: interest rates and fees. The majority of consumers do not shop for a credit card based on terms such as the card's balance computation method, which are difficult to explain and understand. As a result, the balance calculation method should not be required to be part of the Schumer Box found on credit card application disclosures. This information is better suited to the comprehensive plan agreement.

Model Forms and Clauses (Questions 10-12). The model forms and clauses provided by the Federal Reserve are helpful to community banks. The model language helps facilitate compliance and provides a safe harbor to institutions that adopt it. ACB believes that it is particularly important that the Federal Reserve update the model clauses and forms as it works to make the disclosure process helpful to consumers.

Annual Percentage Rate (Questions 23-25). Likewise, we believe that the annual percentage rate (APR) should include only charges that are based on the amount and duration of credit. It should not include fixed fees. The APR is based on the periodic rate of interest for purposes of credit card solicitations and applications, account-opening disclosures, and advertisements for open-end plans. For periodic statements, however, creditors must also disclose an "effective" or "historical" APR that includes any finance charges other than interest imposed during the billing cycle (such as cash advance fees). While we recognize that disclosure of the effective APR is a statutory requirement, we question whether consumers understand what the effective APR is or what it means. This problem is further compounded by how the effective APR is calculated. The current approach includes some finance charges and excludes others. As a result, we question that the effective APR provides information that is genuinely useful to consumers.

Consumer Focus Groups. To enable customers to understand the terms of a credit agreement, disclosures and other account information must use concepts and vocabulary that consumers understand. We encourage the Federal Reserve to work to adopt model disclosure formats and model language that can be comprehended by a person with an eighth grade education. We urge the Federal Reserve to use readily available software programs that provide readability scores for textual information.

Any change in the current disclosure and periodic statement requirements for open-end credit will require costly changes to procedures and computer systems. To ensure that any revisions to Regulation Z use community bank human and financial resources in the most efficient manner possible, we request the Federal Reserve to engage in wide

consumer testing to understand how consumers interpret disclosures and how disclosures could be made more useable. We believe that this is a critical step in order to ensure meaningful changes to Regulation Z. We also encourage the Federal Reserve to discuss the results of any such testing with its Consumer Advisory Council.

We specifically encourage the Federal Reserve to field-test the utility of the effective APR, as discussed above. Perhaps there are alternative frameworks that would be more effective than disclosing the effective APR, such as grouping individual fees in a common area and including the sum of fees incurred during a specific billing cycle. ACB is gathering information from community banks, their card processors, and agent banks to determine whether this approach would be feasible and what the costs would be associated with implementing such a change.

We also urge the Federal Reserve to field-test the idea of creating an expanded Schumer Box that would replace the current account opening disclosure. The expanded Schumer Box could provide a website, address, or telephone number where consumers could obtain more detailed information. This approach may help reduce the over-disclosure problem. ACB will continue to study whether this approach would be helpful to community banks. To protect themselves from litigation, we believe that creditors will continue to provide comprehensive account agreements that describe the terms of an account, the methods of calculating finance charges, payment allocation methods, and change in terms provisions.

Minimum Payments (Question 31)

It is widely believed that many consumers do not understand the effect of making only the required minimum payment on a credit card account. Congress is working to address this problem. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 has been passed by the Senate and is expected to be passed by the House of Representatives in early April. Section 1301 of this legislation would amend the Truth in Lending Act to require creditors to include a "minimum payment warning" on the front of each billing statement and would require creditors to provide a toll-free number where consumers can receive an estimate of the time that it will take to repay their existing balance by making only the minimum monthly payment.

Congress is poised to address what has been identified as a gap in the financial education of American consumers. We do not believe that the Federal Reserve should issue new regulations that exceed these anticipated statutory requirements.

Substantive Provision of Regulation Z (Questions 26-27)

Section 226.9(c) requires creditors to mail or deliver a written notice of any change in the terms of the credit agreement. This notice must be mailed or delivered to the consumer at least 15 days prior to the effective date of the change. ACB does not believe that 15 days provides sufficient time for consumers to make other credit

arrangements if the new terms are undesirable. ACB supports providing such written notice within 30 days of the change in terms.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act, ACB strongly urges the Federal Reserve to carefully study the impact that any changes to Regulation Z would have on small entities. This is not a task to be taken lightly. While ACB believes that reviewing the open-end credit provisions of Regulation Z is a noble undertaking, we emphatically believe that any revisions to Regulation Z must benefit both consumers and community banks and that the benefits of any such revisions outweigh the burden of implementing those changes.

ACB is still evaluating the impact that possible changes to the disclosure framework would have on community banks. At a minimum, community banks will incur reprinting costs for new disclosures. We urge the Federal Reserve to be cognizant that larger font and wider margins may mean longer disclosures, which means increased postage costs. Furthermore, community banks and their credit card processors may incur additional costs to reconfigure computer systems and develop new software or computer programming to provide additional information on periodic statements. We also urge the Federal Reserve to seriously study the effect that any Regulation Z changes would have on the litigation risk posed to community banks. The Truth in Lending Act has been a heavily litigated statute and we are concerned that changes to Regulation Z would expose community banks to additional litigation risk.

ACB recommends that financial institutions be given one year to come into compliance with any amendments to Regulation Z. Changes to existing regulations should not compete for precious compliance resources when community banks are struggling to comply with new regulations under the USA PATRIOT Act and the Sarbanes-Oxley Act.

Conclusion

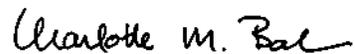
Due to the detailed questions posed by the Federal Reserve in this ANPR, ACB is still gathering feedback from community banks and their credit card processors. We plan to supplement our comment letter as we receive additional information from these parties.

ACB reiterates its belief that consumers should receive clear and understandable information in connection with obtaining financial products and services. We also believe that any changes to Regulation Z's requirements for open-end credit must be meaningful for both consumers and financial institutions. However, we do not believe that amending Regulation Z's open-end credit rules should be viewed as a cure-all for addressing gaps in the financial education of the general public. We believe that extensive financial literacy initiatives are necessary to address these broader consumer issues.

Truth In Lending
March 29, 2005
Page 6

Thank you for the opportunity to comment on this important matter. ACB looks forward to providing additional information regarding the open-end credit provisions of Regulation Z. Should you have any questions, please contact the undersigned at cbahin@acbankers.org or 202-857-3121 or Krista Shonk at 202-857-3187.

Sincerely,



Charlotte M. Bahin
Senior Vice President
Regulatory Affairs