

**From:** Barry L Kramer  
**Subject:** Truth in Lending

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Proposal: Regulation Z - Truth In Lending  
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Comments:

@@@I am a class action attorney that devotes the vast majority of my time to consumer complaints regarding the credit card industry. While the concept of a thorough review of Regulation Z sounds good, the truth of the matter is that such review, and almost every proposal which I have looked at, are basically pointless because the credit card industry have either paid off or outsmarted the foxes guarding the henhouse.

As a result, I will skip the myriad of details as to unfair practices, illegal solicitations, excessive penalties, etc., and get right to the heart of the matter, which is mandatory "NO CLASS ACTION ARBITRATION" provisions which have, during the last few years, been slipped into literally every major credit card issuers standard contracts. The effect of these agreements, which have been found unconscionable by some courts but largely accepted by other courts (including the federal courts) is to negate anything that could possibly come out of this review. In essence, these agreements provide a get-out-of-jail free card to credit card companies which break the rules by having legitimate legal actions dismissed in favor of individual binding arbitration (which accomplishes exactly nothing).

I have successfully sued several major credit card issuers in the past few years, resulting in millions of dollars of refunds and modification of unfair practices, but could probably not do so now in most instances. Illegality and/or unfairness to consumers simply has no meaning if there is no ability to enforce the regulations and laws already on the books. Passing more regulations is simply for appearances, nothing more. For example, First Union Bank previously set a cut-off time for the receipt of credit card payments at an unbelievable 2:00 A.M. That means that unless a payment was received in the two hours between midnight and 2:00 A.M., it would not be properly credited on the day received. This might cost an individual consumer only a relatively small amount of money, and nobody in their right mind would waste their time and money to individually arbitrate the matter? Nobody! That's the whole point of a class action. Thus, it doesn't matter what the wrongful  
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actice is, since the credit card companies make tens or hundreds of millions of dollars by many openly illegal or unfair practices, but are now effectively insulated from the only potential remedy they fear.

The bottom line is that it doesn't make a damn bit of difference what TILA regulations say, or what revised revisions say, if consumers cannot reasonably enforce the regulations. Has anyone ever tried complaining to a bank regulator about unfair treatment? This is largely a waste of time, since the regulators have far more to handle than they could possibly deal with, even without getting bogged down with minor enforcement details.

By far the most important issue of the day is the issue of mandatory "No Class Action Arbitration," and it has gone essentially unmentioned in the proposals I have read. Thus, the comments are coming from individuals that are concerned with individual wrongdoings, but missing the big picture. If the Board would simply prohibit banks from restricting access to the courts by these unfair arbitration provisions, which have nothing at all to do with arbitration and everything to do with insulating credit card companies, it would serve far more good than passing new regulations. Indeed, as recently seen with the bankruptcy changes, the regulations themselves are likely to get worse for consumers, not better. Obviously, the banks are extremely wealthy, and making a fortune from high rates, fees, and penalties, and whether true regulation is likely to come back in fashion is doubtful. I would therefore request that anyone reading this suggestion make a similar proposal for the regulatory board to eliminate the "No Class Action" provisions from cardmember agreements.

As things stand, if a bank simply stuck an incredibly unfair and totally illegal \$100 charge on your account for no reason whatsoever, you could either pay it or have your credit ruined by refusing to pay what was demanded. There would be no other alternative.

I hope this has been informative.

Yours truly,

Barry Kramer, Esq.

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