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Your Fair Lending Advocate in Delaware!

DELAWARE COMMUNITY REINVESTMENT ACTION COUNCIL, INC.

Our mission is "to ensure equal access to credit and capital for the under-served populations and communities throughout Delaware through Education, Outreach, Advocacy, and Legislation."

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October 12, 2007

Ms. 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

**Re: Comments to Docket No. R-1286
Regulation of Credit Cards**

Dear Ms. Johnson:

I am writing on behalf of the Delaware Community Reinvestment Action Council, Inc. a consumer advocacy group in Delaware. We take this opportunity to comment on the Federal Reserve Board's proposed revisions to credit card and other open end credit disclosures under the Truth in Lending Act (TILA). We appreciate the Board's efforts to improve the disclosure requirements for this type of credit.

Credit card pricing is complex and poses the concern that consumers may not understand the true costs of credit. It certainly need not be. Credit can and has been offered without misleading and confusing. Woodstock Institute has provided a series of recommendations to improve disclosure and protect borrowers, which we endorse.

The Board is considering options that will drastically reduce or even eliminate critical disclosures for credit cards are necessary to provide consumers with the information they need. The likelihood of an unfair and deceptive effect on consumers cannot be underscored enough.

Further, the Board's proposal does little to address common credit card abuses. Choosing disclosures over meaningful protection is like letting dogs run wild in an area that has invisible fence, but forgetting to put the collar on so they know their limits. We must learn

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from what has happened in the market. Without substantive consumer protections we create the moral hazard of irresponsible lending.

Proposals to Improve the Format and Timing of Disclosures Will Benefit Consumers

We support the following proposals by the Board:

1. Requiring the use of a table for disclosure of critical terms at important stages of a credit card account.
2. Extending the change in terms notice period from 15 to 45 days.
3. Requiring 45 days notice before: (1) imposing a penalty rate or (2) if a reduction in credit limit results in imposition of an over limit fee or penalty rate.
4. Prohibiting use of term "fixed" unless the interest rate is really fixed.
5. Addressing some subprime abuses. While not curbing most of the very egregious abuses of subprime cards, the proposal may help some consumers become aware of the traps of these cards. However, we believe that the threshold for these disclosures should be lower, requiring disclosure when the fees or deposit on the card exceeds 5 percent of a card's credit limit.

Shrouding the True Cost of Borrowing, Limiting the types of fees that must be disclosed and eliminating the effective APR is Bad for Consumers

The Board has made three proposals that will radically reduce the content and meaningfulness of credit card disclosures. We are greatly concerned about these proposals.

1. **Permitting Creditors to Disclose a Range Of APRs In The Application Disclosures, So That The Creditor Can Later Assign An APR After Reviewing The Consumer's Credit Score.**
Consumers should not be forced to make the decision to transfer hundreds or thousands of dollars in debt blindly, just to make it more convenient for creditors to engage in risk-based pricing.
2. **Limiting Fees Required to Be Disclosed to an Exclusive List**
The only fees that creditors will be required to disclose in these notices are:
 - a. Annual or other periodic fee
 - b. Transaction fees - cash advance, balance transfer, ATM or currency conversion fee
 - c. Penalty fees - late payment, overlimit, or returned payment fee
 - d. Minimum finance charge

What is stop creditors from developing new fees outside of these four categories that do not need to be disclosed ahead of time and in writing?

3. **Modifying or Eliminating the Effective APR**
The Board is proposing two alternatives for the effective APR. The first alternative would be to modify it. The second would be to eliminate it.
 - a. We are strongly opposed to eliminating the effective APR

If consumers are confused by the effective APR, the solution is to improve the disclosure, not eliminate it.

- b. We supporting strengthening the effective APR by
 - i. labeling it the "Fee Inclusive" APR and requiring an explanation of what it means;
 - a. We support it.
 - ii. limiting the fees included in the calculation of the effective APR to 5 categories – periodic interest, transaction charges (cash advance, balance transfer), mandatory credit insurance/debt cancellation, minimum finance charges, and account activity/account balance fees;
 - a. We are opposed. Creativity in the market place will develop new fees.
 - iii. requiring disclosure of a separate effective APR for each fee.
 - a. We are opposed. By not adding the fees together in the effective APR calculation, the proposal understates the true cost of credit.

The Board Needs to Adopt Additional Protections for Credit Card Borrowers

Although an improvement, the proposed rule is woefully inadequate to combat the most serious of credit card abuses. Simply put, disclosures alone will never adequately protect consumers. The proposed rule fails to prohibit the worst of credit card practices, such as:

1. Universal default or its variant "adverse action repricing"
2. Retroactive application of interest rate hikes
3. Over limit abuses, including the fact that the creditors permit consumers to go over the limit, then charge high fees for additional credit)
4. Excessive penalty fees and default rates
5. Abusive late payment rules
6. Payment allocation abuse
7. Payment posting abuse
8. Unilateral changes in terms

The Board has the authority to ban banking practices that are unfair or deceptive under the Federal Trade Commission Act. 15 U.S.C. § 57a(f). It also has authority under TILA to address some substantive abuses, such as payment posting and allocation abuses under Section 1666c. Yet it has taken no action to address these abuses.

To the extent that the Board cannot ban certain practices using its FTC Act authority or TILA, we also urge the Board to weigh in with Congress to ask for true reform of the credit card industry. 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 support and endorse Woodstock Institute's recommendations along the following lines–

1. A floating cap on all periodic interest rates
2. A limitation on fees and charges to an amount the creditor can show is reasonably related to cost.
3. No unilateral adverse changes in interest rates or fees during the contract period
4. A ban on retroactive interest rate increases.
5. No universal default or penalties for any behavior not directly linked to the specific card account at issue.
6. No over limit fees allowed if the creditor permits the credit limit to be exceeded.
7. A ban on repeated or "rollover" late and over the limit fees.
8. No improvident extensions of credit – real underwriting of the consumer's ability to pay should be required.
9. No mandatory arbitration, either for consumers' claims, or for collection actions against consumers.
10. Tougher TILA penalties that provide real incentives to obey the rules.
11. 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.
12. Restrictions on marketing credit cards or extending credit to youth.

While we do not agree with all of the Board's proposals, we commend the Board for its efforts to improve credit card disclosures. However, we urge the Board to undertake a new rulemaking to declare credit card abuses to be unfair practices. For those practices that may require Congressional action, we urge the Board to use its substantial influence to recommend such legislation to Congress.

Sincerely,

Rashmi Rangan
Executive Director