

7/29/08

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

RE: **Docket No. R-1314**, Proposal to amend Regulation AA

Federal Reserve Board of Governors:

Thank you for the opportunity to submit comment on your proposal to amend Regulation AA, Unfair or Deceptive Acts or Practices.

In 1788 our fledgling government was in the midst of recovery from a violent and costly revolution. In a comment to the Commissioners of the Treasury during that year Thomas Jefferson stated, "Though much an enemy to the system of borrowing, yet I feel strongly the necessity of preserving the power to borrow. Without this, we might be overwhelmed by another nation, merely by the force of its credit".

Although this statement was directed towards establishing our nation, it rings as true today for the individual borrower as it did 220 years ago for a young United States. In today's economy, limiting access to credit can be just as destructive for the individual's right to liberty and the pursuit of happiness as it surely would have been for our founding fathers.

The proposed amendment to Regulation AA, specifically the section addressing fees for the availability of credit, would limit consumer credit opportunities in such a way as to make it virtually impossible for a segment of our populace to purchase a rental car, airline tickets, or even to rent a video for their children. The American economy is driven by the availability of credit, our very system of qualification for credit is based solely upon the credit a borrower already has. Imposing fee restrictions would make it fiscally irresponsible for credit issuers to continue to allow sub-prime borrowers to have the opportunity to re-establish their credit, to rent videos for their children, to re-gain control over their finances, and to rejoin the mainstream credit populace.

The risk associated with lending into the subprime market is obviously very high. Delinquency rates in excess of 20% and charge-off rates in excess of 40% of lagged receivables are not uncommon. However, we need to look at the reverse aspect of these percentages, 80% of consumers are maintaining their accounts, 60% are not in default, and these are the customers we must focus on. For every story of a customer overwhelmed with fees, finance charges, and high balances there are numerous stories of success. Many subprime customers have made the most of their opportunity, learned fiscal responsibility, paid their debts on time, and moved on to more attractive pricing with a prime lender due to improvement in their credit score. The availability of subprime credit helped these customers regain control over their financial futures, helped them purchase homes with traditional mortgages, and helped them provide a better future for their families. The limitation in fee structures proposed in this amendment would essentially eliminate the subprime option for

those customers, as the losses associated with the smaller percent would be too great to overcome, conversely eliminating future opportunities for the majority. In a society where you must have credit in order to get credit, this segment of consumer would languish in a world where credit is not available.

Regulation in the subprime market is essential to insure responsible lending as well as responsible borrowing. Proper disclosure, and not pricing limitation, is the means to this end. Easily understandable and conspicuous disclosures should be mandated to all sub-prime borrowers. Consumers should have the ability to make an educated decision regarding their credit. A consumer should be aware of the fees, the finance charges, the penalties for default, and ultimately their available line of credit. A consumer should also have the right to change their mind. A 100% refund policy should be in place for all sub-prime credit cards. If a consumer buys a shirt and it doesn't fit, they return it. If a credit card comes in the mail and the fee structure or credit line "doesn't fit", the consumer should have the right to close the account and have their fees refunded within 30 days of issue. The consumer ultimately holds the decision whether or not to pursue an offer which may have a profound impact on their financial future, that choice should not be regulated for them.

Our great nation was born on the foundation of a free market, personal responsibility, and an economy driven by the consumer. If consumers continue to purchase goods or services a business grows and is successful. If consumers decline to purchase your goods and services your business wilts and eventually fails. Government regulation should have nothing to do with limiting business growth or prosperity unless the business is unlawful or deceitful to the consumer. Regulate mandatory disclosures, refund policies, and eliminate unlawful practices, then let the consumer decide for themselves if a business is viable. Many more consumers are negatively impacted by the price of gasoline than the pricing of subprime credit; however no government regulation has been proposed to regulate energy prices. The remaining arms of business should be allowed to operate under a similar umbrella.

The consumer is not the only citizen impacted by the proposed amendment. In my home state of South Dakota alone this amendment would effectively cause nearly 5,000 families to lose one of their incomes. Sub-prime credit issuers all over the nation would be similarly impacted as thousands more jobs would be at risk due to sub-prime borrowers being forced to cut back on staffing. The loss of free flowing credit to a segment of the population would have an untold effect on the overall economy as lower income families would lose a substantial piece of their purchasing power. The ripple effect would be felt in the prime lending market as well due to the reduction of consumers improving their credit scores and those with no credit history having limited opportunity to qualify for prime products. The overall loss of jobs and financial impact would be profound.

In closing, I would like to thank the Board of Governors for this opportunity to comment. Please consider the points bulleted below in making your decision concerning the proposed amendment:

- Pricing has never been regulated in the past by the Federal Reserve.
- The sub-prime lending community advocates proper and conspicuous disclosure as well as a full refund policy of initial fees.
- Limiting fee structure and pricing will force many subprime lenders out of the market, effectively eliminating the availability of credit for millions of Americans.

- Consumers should be allowed to make an educated decision regarding credit; their decision should not be legislated or regulated.
- The fee changes suggested would severely limit the ability of sub-prime lenders to operate profitably. The reduction in the market would impact 10's of thousands of jobs and lower the purchasing power for millions of Americans.

Thank you for your consideration.

Respectfully Submitted,

Justin Broughton
5501 E 6th St #5
Sioux Falls, SD 57110