

National Association of Federal Credit Unions

Regulation Z (Truth in Lending)

Docket No. R-1286

On December 4, 2007 Governor Warsh and members of the Board staff met with representatives of several federal credit unions and officials from the National Association of Federal Credit Unions (NAFCU). The NAFCU representatives submitted the attached comment and discussed the Board's proposed changes to the open-end credit rules in Regulation Z (Truth in Lending). In particular, one representative stated that many credit unions used multi-feature open-end credit plans to extend loans to credit union members and expressed concern about the proposed changes to Regulation Z and the staff commentary dealing with such plans. The representative also expressed concern about consumer inconvenience if the proposal was adopted and stated that some loans could not be made if the proposal was adopted. Finally, the representative stated that having flexibility regarding open-end plans was desirable.

Attachment

Regulation Z

Open-end Credit

This year, the Federal Reserve Board issued a proposed rule to amend Regulation Z (12 C.F.R. Part 226), which implements the *Truth in Lending Act*. The proposed rule follows two Advanced Notices of Proposed Rulemaking, issued in December 2004 and October 2005, respectively.

The proposed amendments aim at improving the effectiveness of disclosures that creditors provide to consumers at application and throughout the life of an open-end credit account. In general, the amendments would change the format, timing, and content requirements for the five main types of open-end credit disclosures by Regulation Z: (1) credit and charge card application and solicitation disclosures; (2) account-opening disclosures; (3) periodic statement disclosures; (4) change-in-terms notifications; and (5) advertising provisions.

In addition, the proposal would significantly modify the rules that apply to “multi-featured open-end lending” or open-end credit plans that include closed-end features—that is, separate loans or sub-accounts with fixed-repayment plans. Amendments to the official staff commentary would specify that closed-end disclosures rather than open-end disclosures are appropriate when the credit being extended consists of individual loans that are individually approved and underwritten, and that each advance or sub-account must be self-replenishing.

NAFCU recognizes that this comprehensive and thorough review of Regulation Z was a tremendous undertaking for which the Federal Reserve Board and its staff should be praised. NAFCU, however, has significant concerns with some of the proposed amendments, particularly the changes affecting multi-featured, open-end lending and change-in-terms notifications.

Multi-Featured, Open-End Lending

Multi-featured, open-end lending plans have been available in the marketplace, without controversy, for over 25 years. NAFCU is unaware of any consumer complaints about these products or any consumer harm that has resulted from this type of lending. In fact, we believe that multi-featured, open-end credit plans have a strong record of performance and provide positive benefits for credit union members. Further, the proposed revisions would also present significant compliance challenges and impose considerable switching costs on those institutions that are currently operating in an open-end lending environment. As member-owned, not-for-profit cooperatives, any adverse economic impact on credit unions is ultimately felt by the members.

NAFCU firmly believes that the availability of multi-featured, open-end lending must be preserved; as such, we strongly urge the Board to withdraw the proposed amendments. At minimum, NAFCU encourages the Board to consider alternative approaches to ensure the continued viability of multi-featured, open-end lending.

Change-in-Terms Notification

The proposed rule would increase the advance notice required before a change in term can be imposed from 15 days to 45 days. NAFCU believes that the objectives of the increased advance notice requirement can be achieved with shorter notice. Because many credit unions mitigate costs and reduce call center volume by staggering their statement cycles or providing change-in-terms notifications with monthly newsletters, in practice, members generally receive notice of changes to their account terms well in advance of 15 days. In fact, most NAFCU-member credit unions indicate that they are currently providing change-in-terms notifications at least 30 days in advance. Due to typical statement cycles, increasing the advance notice required would, as a practical matter, result in 60 days advance notice, or even as much as 90 days in some circumstances. Such a significant time period for advance notice would negatively impact institutions' ability to make timely changes based on overall market conditions.

Accordingly, NAFCU urges the Federal Reserve Board to reduce the time required for advance notice of changed terms. A shorter timeframe, not to exceed 30 days, would strike a more appropriate balance between the need for consumers to have a reasonable opportunity to seek alternatives and the need for institutions to have sufficient flexibility to address material product changes.

Closed-End Credit

The Federal Reserve Board has indicated that forthcoming amendments to the closed-end credit rules can be anticipated in the near future. NAFCU looks forward to providing its comments on the impending proposal.

NAFCU commends the Federal Reserve Board for its efforts to improve the effectiveness of consumer disclosures through consumer focus group testing and strongly encourages the Board to continue to integrate consumer testing into the regulatory process. In particular, NAFCU urges the Federal Reserve Board to utilize consumer focus groups to test the effectiveness of its proposed amendments to the closed-end disclosures.

NAFCU also encourages the Federal Reserve Board to be cognizant of the substantial compliance costs that potentially could be involved in light of current proposed changes involving multi-featured, open-end credit plans. As discussed above, the Federal Reserve Board's proposed amendments would impose considerable switching costs on those institutions that are currently operating in an open-end lending environment. These switching costs are even more pronounced in light of the Board's ongoing review of Regulation Z's closed-end credit rules. Indeed, credit unions and other institutions that are forced to incur costs for shifting to closed-end lending due to changes to the multi-featured open-end credit rules will need to contend with *more* implementation costs once the closed-end rules are amended. Accordingly, NAFCU strongly recommends that, should the Federal Reserve Board move forward with its proposed changes to the open-end credit rules, mandatory compliance with regard to multi-featured, open-end credit plans be delayed until the Board's revisions to the closed-end rules are finalized.