From: "L. M. Drucker" <lmdrucker@earthlink.net> on 07/01/2008 05:00:02 PM

Subject: Regulation AA

L. M. Drucker
6546 Haley Drive
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July 1, 2008

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

Dear Jennifer Johnson:

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

Re: Regulation AA - Unfair or Deceptive Acts or Practices [R-1314]

Dear Ms. Johnson:

Thank you for this opportunity to file comments in support of "Regulation AA - Unfair or Deceptive Acts or Practices [R-1314]," the recent proposal to address unfair and deceptive credit-card practices.

I am a small, woman-owned business owner and have been in business for nearly 30 years. Over the years I have employed up to 15 people. I have always been careful and conservative in my use of credit cards, limiting them to essential supplies, furniture, and gas. I have always paid off my balance in full each month.

Over the past year, I have found myself with "late" payments several times. Altho' the grace period supposedly remains the same, the time between when I receive it and when it is due is now less than 10 days. The credit companies have advised me to "pay it as soon as you get it" to avoid late fees. This hurts my business, since it destroys my ability to ladder my monthly debts and manage my cash flow. "Late" payments also trigger increasingly onerous fees, which cost me a lot of time and effort to have waived. Credit companies often will not waive them at all.

I could have been spending this time, effort, and money on building my business, not servicing the credit companies. Sadly, my experiences are not unique. According to a nationwide survey of small and midsized business owners, recently commissioned by the National Small Business Association, credit cards are a primary source of financing for America's small businesses. In fact, 44 percent of small-business owners identified credit cards as a source of financing that their company had used in the previous 12 months—more than any other source of financing, including business earnings.

In 1993, only 16 percent of small businesses owners identified credit cards as a source of financing they had used in the preceding 12 months. Of the small-business owners who use credit cards as a source of financing, 71 percent report carrying a balance month-to-month. This is up from 64 percent in 2000. Twelve percent of small-business owners are carrying a balance of more than $25,000, and 33 percent are carrying a balance of more than $10,000.

It is important to note that small-business owners like me are not turning to credit cards to finance our businesses because we think we are getting a good deal. In fact, among those using credit cards, 57 percent think that the terms of their cards have worsened over the last five years. This perception only appears to be growing. Two-thirds of the respondents to a recent NSBA quick poll reported noticing an increase in the fees associated with their credit cards in the last three months. The same quick poll revealed that 56 percent of respondents had experienced an increase in their credit-card interest rates in the last three months or had received notice that their issuer planned to increase them in the near future. I myself get notices in the mail every week about "changes in terms," mainly increased fees (balance transfers, late fees), and decreased grace periods.

Why should the small-business community's increased reliance on credit cards and worsening credit-card terms be of interest to federal regulators? Put simply, small businesses are the engine of the U.S. economy. We comprise 99.7 percent of all U.S. employer firms and more than half of all private-sector employees. Since 1989, small business has created 93.5 percent of net new jobs—that's 4,000 net new jobs every day. We are responsible for more than 50 percent of non-farm private gross domestic product. In short, what harms America's small businesses harms America's economy.

The billions of dollars generated from outlandish retroactive interest rates hikes, the escalating imposition of undisclosed fees, and unilateral and unforeseen interest-rate increases is money diverted from economic development. For small-business owners, such as myself, it means less money to advertise or invest in new equipment or hire new employees. A third of small- and mid-sized businesses say that they would hire additional employees if more capital were available to them.

Accordingly, I support the following provisions from the proposed rule:

• Ensuring a Reasonable Time to Make Payment

Credit-card companies should be prohibited from treating payments as late unless consumers have been provided a reasonable amount of time to make their payments. To be sure, the 21 day time period in the proposal is an improvement, but a longer period (perhaps 30 days) would be an even larger improvement.

The vagaries of the U.S. Postal System and the inconsistent mailing cycles and changing due dates of the credit-card companies create havoc for the small businesses in America that rely on credit cards to finance their operations. This inconsistency makes running a business more challenging and perilous. I also support prohibiting credit-card companies from treating payments as late if the issuer's action caused a delay in crediting a payment.

• Ensuring Fair Application of Payments

I support requiring card issuers to apply customers' payments to the card balance with the highest interest rate first. I also support the proposal prohibiting credit-card companies from denying consumers a grace period on purchases solely because they have not paid off a balance at a promotional rate.

• Restricting increases in APR

I support restricting credit-card companies from increasing the interest rate on outstanding balances unless consumers are more than 30 days late with their payment. Ideally, I would like to see ALL retroactive interest rate hikes prohibited.

Having my interest rates hiked up for products and services for which I already am committed undermines my business plans and makes running my business much more difficult.

To this end, I support the proposed requirement that when a credit-card company raises the rate for a category of new charges, consumers who carry a balance at the old interest rate would now be protected from a fee for carrying a balance and would be given five years to pay off the balance at the old interest rate.

I also support the restriction that when a low promotional interest rate, such as a balance transfer rate, is lost, then the new rate would be only the regular interest rate instead of a much higher penalty interest rate.

• Restraining unfair over-limit fees

I support prohibiting credit-card company from assessing fees if consumers exceed their credit limits solely due to holds placed on the available credit by the card issuers. Card holders should not be liable for over-limit fees due to the manipulatable processing methods of their credit-card companies.

• Eliminating double-cycle billing

I support the proposed provision that would prohibit a credit-card company from reaching back to an earlier billing cycle when calculating the amount of interest charged in the current cycle.

• Improving firm offers of credit

I support requiring credit-card companies to describe only those interest rates and credit limits that the consumers are likely to receive and not merely the whole spectrum of only-theoretically-possible offers. If credit-card companies can use our credit scores and record to screen us as potential consumers, then it can use them to give us a realistic sense of what interest rates we might be eligible for.

As a small-business owner dependent on credit-card use, it is harmful for me to apply for a card and later learn that I will not receive the interest rate I was seemingly promised, as it affects my credit rating and impedes my ability to qualify for other cards.

Additional Reforms Needed

In addition to the aforementioned provisions, I think the following credit-card reforms should be included in the proposed rule:

• Prohibiting the practice of universal default

While many card issuers voluntarily have suspended this practice, a voluntary suspension is an insufficient response to this grossly unfair practice and its prohibition needs to be codified.

• Limiting the interest rate percentages increases that card issuers can impose on holders

It is unacceptable and grossly unfair for small-business owners to have their interest rates jump to the average default rate of 27.3 percent because of one late payment or because they slightly exceeded their credit limit; small firms reliant on credit cards already pay more than twice the interest rate that large firms pay when borrowing at the prime rate.

• Prohibiting the ability of card issuers to unilaterally alter the terms of consumers' credit-card contracts at "any time for any reason

One of the basic tenets of free-market capitalism is the sanctity and insolubility of contracts, but somehow the credit-card industry has managed to insulate itself from adherence to this principle; this must change.

• Prohibiting interest charges on transaction fees

Credit-card transaction fees do not represent a line of credit. They are surcharges incurred for utilizing particular products and services offered by the credit-card companies. Why are consumers charged interest on a fee they are paying to use a service?

• Prohibiting extra interest charges on card debt that the cardholder already paid in full

I appreciate the opportunity to weigh-in on this much-needed reform proposal and urge the Federal Reserve Board and its partner agencies to refrain from weakening the proposed rule.

Sincerely,

Sincerely,

L. M. Drucker