CHASE

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July 17, 2008

Via Electronic Mail and U.S. Mail

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

Re: Docket No. R-1286

Dear Ms. Johnson:

I. INTRODUCTION AND OVERVIEW

Chase Bank USA, N.A. ("Chase"), the consumer credit card bank subsidiary of JPMorgan Chase & Co., appreciates the opportunity to comment on the additional proposed revisions to amend Regulation Z, which implements the Truth in Lending Act ("TILA"), and the Regulation Z Official Staff commentary ("Commentary") to the Regulation (the "Proposal") published in the Federal Register on May 19, 2008 by the Board of Governors of the Federal Reserve (the "Board").

We appreciate the Board's effort to ensure consumers have the information they need, in ways they can understand, and applaud the commitment to enhancing consumers' ability to use credit cards to their benefit. At Chase, we share that objective, believing that the credit card marketplace and economy are strengthened when consumers make informed decisions. In general, we are supportive of the Proposal and pleased to offer these specific comments, which are organized by topic, with citations to appropriate sections of the Proposal. We view it as an opportunity to cast light on practices that non-issuers may not understand.

A. Consumer Testing

We support the approach used by the Board to seek input through consumer testing, and to use that feedback in developing revisions that may help consumer understanding of the broad set of disclosures required by the Regulation. This research is important in the overall scope of the proposed changes. However, we respectfully submit that the findings from consumer testing regarding the suggested changes in disclosures or practices must be evaluated in the broader context of the overall impact those changes would have on consumers' cost of credit, credit availability, or other benefits of their cards. The consumer testing might well produce different results if the participants were also asked whether they would be willing to pay more for credit, or have lower credit lines, in exchange for the changes in disclosures or practices proposed in the

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new regulations. For example, if consumers understood that new regulations would cause their APRs to increase, reduce their lines, reduce low-rate introductory or promotional offers that they receive, and/or reduce the reward features on their cards, they may not want to sacrifice those currently existing benefits in exchange for new regulations. In this letter, we provide some data and context on the impacts to consumers for certain of the proposed changes, and urge the Board to determine what is best for consumers taking this information into consideration as well as that it already has from its testing.

B. Time to Comply

While we recognize the importance of the improvements that will result from the Proposal, we would be remiss if we did not point out that the technology and operational efforts to comply with the breadth of the new requirements of the Final Reg. Z Rule will be significant, particularly coupled with any implementation efforts resulting from the Board's Regulation AA Proposal published in the Federal Register on May 19, 2008 (the "UDAP Proposal"). As a necessary precaution given the size of Chase's credit card portfolio of over 156 million cards issued, these changes would be implemented in phases and not all at once. There will also be significant staffing and prioritization challenges to implement these changes on top of the normal conduct of the business. Therefore, we urge the Board to allow creditors at least 18 months from the effective date to comply with the Final Reg. Z Rule, particularly with respect to all the changes required for periodic billing statements.

II. SPECIFIC COMMENTS

Chase believes many of the proposed revisions are strong and welcomed enhancements to the original Reg. Z Proposal published in June 2007. Specific comments follow.

A. Changes in Rates and Terms - 45-day Notice Requirement

We appreciate the Board's raising the issue of longer prior notice requirements for a change in terms. In reviewing the Reg. Z Proposals, Chase surveyed the landscape of competitive offers. There are a myriad of offers that consumers receive from creditors promoting their products both in the mail and on the Internet. It is apparent that the number, variety and ease of acceptance of those offers make a 15-day notice period ample time to allow customers to move their balances to another issuer. In addition, it is important that Chase is able to reconsider its pricing to account for safety and soundness as well as risk concerns. Therefore, Chase continues to believe that 15-days prior notice is ample advance notice for a change in terms. Qualified consumers will be able to find other financing if desired, which undermines the Board's underlying premise for this extended notice period. We believe the current 15-day prior notice requirement should be retained and not be extended to 45-days.

We also continue to believe no additional prior notice should be required where the penalty APR has already been disclosed to consumers and is part of their account terms. Consumers already will have been informed many times of the penalty APR before it is imposed: in ads before the account is open; within the account agreement; as part of promotional offers, and each month as part of the new "late payment" warning on billing statements. The penalty APR will be even more clearly disclosed under the revised solicitation table and new account opening table in the original Reg. Z Proposal. Further, imposing a prior notice requirement to impose the penalty APR may have adverse financial consequences for consumers. Consumers may face higher costs or lower credit lines, as creditors may be forced to consider other means to price for risk, such as setting a higher penalty APR, raising regular APRs for lower risk customers to compensate for the delayed ability to offset increased losses from higher risk customers, imposing tighter credit standards, or any combination of the above.

Further, with respect to balances at promotional low rate APRs, no additional prior notice should be required to increase the APR where the promotional rate is lost or expires under conditions previously disclosed to consumers in the promotional offer, and the rate that will apply upon the loss or expiration of the promotional APR has already been disclosed to consumers. Imposing such a notice requirement means such offers will make substantially less economic sense for creditors, and will likely cause a significant reduction in, or shorter duration of, promotional low rate offers, the promotional APRs may be increased, or such offers may be eliminated altogether. The duration of such promotional APRs can vary (*e.g.*, between 6-12 months), and to impose any prior notice requirement can extend such offers significantly. The net effect of the proposed rule, therefore, is likely a loss of consumer benefits in the form of a higher cost of borrowing.

We want to underscore the negative impact that curtailing promotional low rate offers will have on consumers and on the economy as well. We estimate that within the consumer credit card industry today, there are over $225 billion in outstanding promotional low rate balances. These balances reflect a high level of consumer spending that will likely be greatly reduced or removed from the market if the Reg. Z and UDAP Proposals are adopted in their current form. At the same time, these balances represent significant cost savings to consumers by providing a low cost of borrowing. Given that the effect of the proposed changes will be to restrict the volume of these low rate offers or to increase their rates, the cost to consumers and the economy will be significant. For example, raising the rate on this volume of balances by an incremental 5% would cost consumers an additional $1.1 billion annually to borrow for the same purchases. For an individual consumer with a $5,000 promotional rate of 7.9%, increasing the promotional rate to 12.9% would cost an additional $250 annually. This will hurt not only the consumer sector that relies on credit in these difficult times, but also can hinder the U.S. economy that is already struggling from the effects of the constriction of available credit. The Board should weigh the economic impact of its Proposals both from a consumer and monetary policy standpoint.

We believe it is in everyone's best interest for creditors to be able to make properly disclosed promotional low rate offers to qualified consumers. We also recognize that prior notice of a change in terms is an important issue for consumers. In the interest of striking a fair balance between the risk of loss creditors must take into account in making low rate promotional offers, and providing adequate notice to consumers of the consequences if they were to lose such promotional rates, we offer the following suggested alternative to any requirement to provide prior notice for such balances. We urge the Board to: 1) exempt any change in a promotional APR from any prior notice requirement; 2) make the exemption subject to reasonable restrictions, including advance disclosure of any conditions on the offer that will cause a consumer to lose the promotional rate, either in the account agreement or in the promotional offer itself; and 3) require as part of the exemption that the increased APR be no greater than the non-promotional APR in effect at the time the consumer loses the promotional APR. In other words, a consumer's applicable non-promotional APR would apply if they lose the promotional APR.

We note that consumers' effective non-promotional APRs may change during the period of a promotional offer. For example, a consumer may convert his or her account to a different account with the same creditor with different rewards and different non-promotional APRs, and the balances from the old account (including the promotional rate balances) are transferred to the new account. Also, consumers may request and be granted by the creditor lower non-promotional APRs on their existing accounts, or a creditor may implement a change in terms to raise non-promotional APRs subject to any opt out rights required by state law. Further, a consumer may already have a penalty rate in effect on the account when they accept a promotional offer, and that is now the standard APR for the account. We urge the Board to permit sufficient flexibility to accommodate such situations. We believe the Board could provide that promotional rate balances are exempt from any prior notice requirement in the event of any loss or expiration of the promotional rate, provided that the non-promotional rate that would apply has already been disclosed to the consumer and that non-promotional rate is the APR in effect at the time the consumer loses the promotional rate.

In support of such an exemption for promotional low-rate APR increases from the Reg. Z change in terms rules, we refer the Board to the UDAP Proposal's 12 CFR 227.24(b)(2). In that Proposal, which would restrict increasing APRs on existing balances, it is proposed to exempt promotional rate balances broadly. Any "expiration or loss" of a promotional APR would be exempt provided the APR is not increased to an APR greater than the APR that would have applied after the expiration of the promotional APR. Since the Board provides for a broad exemption from this UDAP rule for changing the APR on existing promotional APR balances, it should also provide a broad exemption from any Reg. Z prior notice requirement for changing promotional APRs that expire or are lost. This change in a promotional APR to the non-promotional APR that would have applied when the promotional APR is lost is not a change in any term under Section 226.6(b)(1), 226.6(b)(2), or 226.6(c)(1). Any such non-promotional APR would have been previously disclosed to the consumer. This further supports an exemption from any prior notice requirement. We strongly believe that Sections 226.9(g)(1)(i) and (ii) should be revised to exempt any changes in APRs to promotional rate balances, with the limitation described above.

We similarly continue to urge that any special payment programs offered to consumers experiencing financial difficulties (*e.g.*, accounts that have been referred to collections) should also be exempt from any prior notice requirement. These programs include payment arrangements for up to 60 months at significantly lower rates, as well as referrals to Consumer Credit Counseling programs. As with promotional rate offers, consumers are disclosed the conditions of the special payment programs, and understand that if they don't meet them, the APR in effect when they lose the special rate will be reinstated. These special programs are very beneficial to consumers experiencing financial difficulty, and often prevent charge-offs. We estimate that within the consumer credit card industry today, there are about $20-25 billion in outstanding balances within such special payment programs. The curtailment or elimination of such programs due to imposition of any prior notice will hurt consumers by forcing creditors to be more circumspect in offering them.

B. Effect of Additional UDAP Requirements on Change in Terms Disclosures

As a result of the UDAP Proposal's restrictions on increasing APRs on existing balances, the Board proposes to revise Regulation Z to clarify that a change in terms notice provided in relation to an APR increase must disclose the balances to which the increased rate will be applied. If the creditor cannot increase APRs on certain existing balances under the UDAP Proposal, the creditor must also identify the balances to which the current APR continues to apply with a warning that these balances will also be subject to the increased APR if the consumer fails to make a required minimum payment within 30 days from the due date. The Proposal includes examples of how the 14-day, 30-day and 45-day periods provided for in Regulation Z and the UDAP Proposal will work.

We do not support the requirement in the Proposal that creditors would be required to send a second notice of change in terms in the situation where a creditor provided a notice with respect to increasing the APR on new balances after 14 days and the consumer becomes 30-days past due after the 45-day notice period in the prior notice. The first change in terms notice sent to consumers, which informs them that the increased APR will apply to balances existing after 14 days if they become 30-days past due, should be adequate notice whether or not the 30-day trigger occurs during the 45-day notice period. Consumers will be informed by the first notice of the possible implications if their balances were to become 30 days past due, and have ample time to avoid higher APRs on such balances.

We further believe the illustrations provided in the Revised Reg. Z Proposal for Section 226.9(g) demonstrate how complicated the consumer disclosures will be if the Board retains a 45-day notice rule in the Final Reg. Z Rule. The effect of this rule forces the use of disclosures that provide specific dates within billing cycles to describe when current or increased APRs apply and which account transactions and balances are affected. It would be far simpler and more understandable for consumers if the transactions and balances affected by a change in rates applied for the entire billing cycle or billing statement in which they appear, rather than in reference to a specific date. Therefore, we urge the Board to adopt in the Final Reg. Z Rule that for any change in terms subject to a prior notice requirement, the notice should be mailed or delivered only one billing cycle before the change in APR takes effect (*i.e.*, on or with the billing statement the month before the billing statement that shows the increased APR or fee, or an equivalent advance notice period for a change in terms notice that is sent to consumers separately from their billing statement). This will permit simpler disclosures that apply to all balances or transactions for a particular billing cycle or statement, and also permit notices to be provided closer in time to the actual APR changes – making them more effective for consumers.

However, if the Board retains the 45-day notice requirement and disclosures for changes in terms subject to such rules, in lieu of a one-cycle prior notice as suggested above, we point out that the model disclosures in Form G-21 should be revised. This Form describes that the APR changes apply to transactions "made" on or after - or before - a certain date, when in fact the relevant date might be better described by reference to the transaction date.

C. Applications and Solicitations

The Proposal would make additional changes to the format and content of credit and charge card application and solicitation table disclosures to make them more meaningful and easier for consumers to use. We support all of these changes except as noted.

- Grace period labels. The Proposal would require the use of the phrases "how to avoid interest" (or "paying interest" if no grace period exists) or substantially similar terminology, instead of the term "grace period" as a heading in the summary table provided at application (and elsewhere such as at account opening or with checks that access credit card accounts). The Board also proposes, at Comment 226.5a(b)(5)-1, to require a different description of any purchase "grace period." These changes from the original Reg. Z Proposal are made in light of further focus group testing by the Board. We fully support providing grace period disclosures that involve an important consumer benefit offered only on credit cards, which are as understandable as possible to consumers. We do have a minor suggestion, which we ask the Board to consider in its Final Rule.

The Board proposes the following language to describe a grace period conditioned on paying a balance in full each month: "Your due date is [at least] __ days after the close of each billing cycle. We will not charge you interest on purchases if you pay your entire balance (excluding promotional balances) by the due date each month." Since promotional balances may be described with more particularity (or using different terminology) on billing statements and elsewhere, and also since there can be variations in grace periods, we ask the Board to allow sufficient flexibility in the Final Reg. Z rule for creditors to provide accurate grace period disclosures that will be clearly understandable to consumers.

- <u>Minimum interest charge</u>. The Proposal would permit a creditor to omit a de minimis minimum finance charge of $1 or less from the table. Chase fully supports this change, which will simplify the table disclosures for consumers and omit a term that we believe consumers do not rely on in shopping for credit. We applaud the Board's effort to simplify disclosures and confine them to only those upon which consumers rely.

- <u>Foreign transaction fees</u>. The Proposal would require issuers to disclose fees for purchase transactions in a foreign currency or conducted outside the United States in the table provided at application or solicitation. Chase fully supports this change, as this can be an important term for consumers who travel extensively outside the United States.

- <u>Penalty rate when credit privileges are terminated</u>. The Proposal would require and has proposed an approach for card issuers to disclose in the application summary table the increased rates that apply when credit privileges are terminated (*e.g.*, a special rate that is different than a penalty rate). Chase has not adopted this practice, but believes that such a disclosure should be necessary in any open-end plan that does. Chase fully supports this change, as it is clearly an important credit term that consumers should be aware of when they are shopping for credit.

D. Other Advertising Issues

<u>Advertising Provisions</u>. For deferred interest plans that advertise "no interest" or similar terms, the Proposal would add notice and proximity requirements to require advertisements to state the circumstances under which interest is charged from the date of purchase and, if applicable, that the minimum payments required will not pay off the balance in full by the end of the deferral period. Chase supports these changes, as they will help ensure consumer receiving such offers receive relevant information. However, we believe there should be an exception for certain types of ads, such as for a store display. For such ads, we ask that the Board consider permitting creditors to indicate in the ad where the consumer can obtain additional information about the interest-deferred program (such as from a store clerk).

<u>Advertising Using Intro APRs</u>. The original Reg. Z Proposal, Section 226.16(e), includes new additional disclosure requirements that apply to written or electronic advertising materials, including those accompanying new account applications or solicitations and applications made available to the general public. These disclosures include when the introductory rate will end

and the APR that will apply at the end of the introductory period. The Board solicits comment on whether these disclosure requirements would be helpful in other advertisements, such as telephone, radio, or television advertisements. If these rules were extended to ads that are not in written or electronic form, the Board seeks comment if additional guidance would be needed such as how to apply the proximity requirement in an oral context. We believe that for such media other than print or online media, creditors will need flexibility to be able to make the additional disclosure in a prominent location closely proximate to the first listing of the introductory APR. Specifically, in TV ads, where both voice and print are used, we believe a creditor should be able to make such disclosures either orally or in printed text within the ad.

E. Electronic Disclosures

The Proposal clarifies that disclosures that are not required to be in writing may be provided electronically without regard for the notice and consent provisions of the E-Sign Act if the consumer requests the product electronically, such as at a credit card issuer's web site. For example, the disclosure of certain service fees under proposed Section 226.6(b)(1) that can be provided orally at any time before the consumer agrees to pay or becomes obligated to pay for the fee, may be provided electronically without notice or consent under the E-Sign Act if the consumer requests the service electronically. Chase strongly supports these clarifications because they are consistent with the requirements of the E-Sign Act and are consistent with the expectations of consumers who are dealing with creditors electronically.

F. Account-opening Disclosures

The Proposal would require creditors that assess fees or a security deposit at account opening that are 25% or more of the minimum credit limit to provide a notice of the consumer's right to reject the plan and not be obligated to pay the fees after receiving the account-opening disclosures if the consumer has not used the account or paid a fee (other than certain application fees). Changes regarding "grace period" terminology and minimum interest charge disclosure requirements are also proposed to conform the disclosure requirements for the account-opening table to the requirements for the table required with applications or solicitations. Finally, model forms are proposed to ease compliance for creditors offering open-end (not home-secured) plans that are not accessed by credit cards, such as lines of credit or overdraft plans. Chase fully supports these changes.

G. Certain Disclosures and Practices after Account Opening

<u>Checks that Access Credit Card Accounts</u>. The Proposal would add to those requirements added by the original Reg. Z Proposal (*i.e.* the rates that will apply if the checks are used, any transaction fees, and whether or not a grace period exists), that creditors disclose any date by which consumers must use checks that access credit card accounts to receive the disclosed rates. Here again, the Board's Proposal is an appropriate enhancement to the other disclosures, and will further consumers' understanding regarding the use of such checks. Chase already voluntarily provides such "use by" information in the check offers it makes and fully supports this change.

<u>Advertising Promotional APRs to Existing Accounts</u>. Chase fully supports the Board's clarification that neither the term "introductory" nor "intro" is appropriate to describe an interest rate or fee in advertising to consumers with existing open-end accounts.

Card Substitution. The Proposal proposes a change to the Commentary stating that an issuer that proposes to change the merchant base that will honor an accepted credit card may not properly substitute the new card for the accepted card without a specific request or application if the account has been inactive for a 24-month period preceding the issuance of a substitute card. Although Chase does not engage in such practices, we fully support this proposed change.

Crediting Payments. The Proposal would require a cut-off hour for mailed payments to be 5 p.m. at the location where the creditor designated the payment to be sent. Creditors that set due dates on a weekend or holiday but do not accept mailed payments on those days would not be able to consider a payment received on the next business day as late for any reason. Chase believes that cutoff hours before 5 p.m. for mailed payments are reasonable under existing Regulation Z standards, and can help avoid "holdover" processing and associated backdating of payments that can cause consumer dissatisfaction. However, we appreciate and support the recognition by the Board that the cutoff hour should be tied to the location where the payment is received, and also that weekends or holidays should be taken into account in determining whether a payment is received on time.

Investigating Claims of Unauthorized Transactions or Allegations of Billing Errors. Currently, creditors must conduct a reasonable investigation before imposing liability for an unauthorized transaction, and may reasonably request a consumer's cooperation. The Proposal clarifies that a creditor may not, however, deny a claim solely if the consumer does not comply with a request to sign a written affidavit or file a police report, and for consistency extends guidance for reasonably investigating claims of unauthorized transactions to allegations of billing errors. Chase supports these changes.

Effective APR on Periodic Statements. As stated in Chase's original Reg. Z Comment Letter, we believe that the "effective" or "fee-inclusive" APR disclosure on billing statements should be eliminated because it greatly distorts the APR, inaccurately reflects the cost of credit, and confuses customers. We refer the Board to our position in that Letter on this topic, and reiterate our belief that consumers do not understand the effective APR, nor can they accurately explain how the effective APR is calculated or what it represents. The effective APR serves no useful consumer benefit and, in fact, has the harmful effect of consumer confusion. Chase again urges that this ill-advised disclosure that has confused consumers for many years be eliminated.

III. PREEMPTION

Chase strongly urges the Board to consider a broad preemption standard for the many changes and new requirements contained in the Revised Reg. Z Proposal. Similar to the Fair Credit and Charge Card Disclosure Act of 1988, many of the requirements involve disclosures that should be uniform throughout the credit industry. State laws affecting such disclosures should be preempted to preserve the integrity of the Board's work and to promote uniform disclosures of key credit terms that will benefit consumers. The other preemption standard in Regulation Z for disclosures other than credit or charge card applications or solicitations, that only "inconsistent" state disclosures are preempted, is not appropriate for the disclosure requirements set forth in the Proposal.

IV. CONCLUSION

In conclusion, Chase appreciates the opportunity to comment on the Proposal. We hope that our comments will further shape the Proposal in ways that help improve the clarity and consistency of disclosures, helping consumers make informed choices throughout the relationship they have with their bank. Please contact me with any questions about our comments using the contact information at the bottom of the first page.

Sincerely,