



Credit Union National Association

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July 18, 2008

Ms. 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-1286 – Proposed Regulation Z Open-end Credit Rules

Dear Ms. Johnson:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the Federal Reserve Board's (Board's) proposed rule on possible changes to the open-end credit rules under Regulation Z, the Truth in Lending Act (TILA). The proposal revises the comprehensive open-end proposal that was issued last year and is also intended to complement and be consistent with the proposal published recently by the National Credit Union Administration (NCUA), the Board, and the Office of Thrift Supervision (OTS) that addresses unfair and deceptive practices as they pertain to credit cards and overdraft protection plans. CUNA will be submitting a comprehensive comment letter to NCUA in response to the unfair and deceptive practices proposal that should be reviewed in conjunction with the comments outlined below. By way of background, CUNA represents approximately 90% of our nation's 8,300 federal and state-chartered credit unions, which serve more than 90 million members. This letter was developed under the auspices of CUNA's Consumer Protection Subcommittee.

Summary of CUNA's Comments

- CUNA is generally concerned about the number of proposed changes to Regulation Z over the last year. While we understand changing circumstances may call for revisions, any changes to complex rules, such as the Truth in Lending Act rules, create regulatory burden for financial institutions. We urge the Fed to be mindful of the burdens and propose modifications to streamline Regulation Z requirements.
- CUNA agrees with the proposed change that will prohibit creditors from setting a cut-off time before 5:00 PM on the due date for purposes of



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determining whether a payment sent by mail will be considered late, as well as the proposed change that payments may not be considered late if they are received the next business after a due date that falls on a holiday or weekend. We would also support expanding this change to payments sent by telephone or by other electronic means.

- CUNA agrees with the proposed change that will no longer require minimum finance charges to be disclosed if they do not exceed \$1.
- For accounts in which fees and security deposits exceed 25% of the available credit, we support the additional disclosures that would be required for these types of accounts and would support extending the threshold to as low as 10%.
- CUNA does not support the proposed change in which the term “introductory” would be changed to “promotional” when referring to a discounted interest rate that applies to an existing account. Although the term “introductory” may not be the optimal term to use for existing accounts, we believe it would be better for consumers if a consistent term is used to apply to all discounted rates, regardless of whether they are for new or existing accounts.
- Because this proposal and the proposal last year incorporate extensive and comprehensive revisions to the Regulation Z open-end rules, credit unions and others should be given a significant amount of time to prepare for all of these changes. For this reason, mandatory compliance should not be required until at least two years after these changes are issued in final form.

Discussion

Payment Cut-off Times

For payments sent by mail, the proposal will prohibit creditors from setting a cut-off time before 5:00 PM on the due date for purposes of determining whether a payment will be considered late. This will not apply to payments made by telephone or electronically. Also, creditors that set due dates on weekends or holidays, but do not accept payments sent by mail on those days, would not be able to consider the payment late if it is received on the next business day.

CUNA supports this approach and would also support expanding these provisions to payments received by telephone or through other electronic means. Payments received at any time during the business day should be considered received on that day and would view 5:00 PM to be the customary end of the business day.

As for payments sent by mail, most businesses receive their mail at approximately the same time each day and usually before 5:00 PM. Creditors can therefore anticipate when they will receive payments each day, and they should not be permitted to set a cut-off time before they receive the mail for that day. Creditors should also not consider payments late if they are received on the due date but arrive later in the day due to a delay in the mail service. Such a

delay is not within the control of the consumer and, for this reason, we believe the best approach is the 5:00 PM cut-off time, as proposed by the Board.

For creditors that set due dates on weekends or holidays, but do not accept payments sent by mail on those days, we agree they should not be able to consider the payment late if it is received on the next business day. Creditors should be able to adjust their processing systems to either ensure due dates do not fall on weekends or holidays or ensure that late fees are not assessed if payments are received on weekends or holidays but are not processed until the next business day.

CUNA's support of the 5:00 PM cut-off time and prohibition of treating payments as late if received on holidays and weekends is based on our understanding that there will be no requirement for payments to be processed by the creditors within certain time frames. For example, the proposal will allow creditors to process the payment after the date it is received, but will only prohibit assessing a late fee, or otherwise consider the payment late, if it is received on or before the due date.

Disclosure of Minimum Finance Charge

Currently, creditors must disclose in the summary table on the application any minimum interest or finance charge. Under the proposal, the minimum interest or finance charge would only need to be disclosed if it exceeds \$1. We agree with this proposed change and believe consumers have no concerns when minimum finance charges are this low. The most common minimum finance charge for credit unions is currently 50 cents, which will no longer need to be disclosed under this proposed change.

Fees and Security Deposits for Certain Accounts

Under the proposal, creditors that assess fees and security deposits at account opening that are 25% or more of the minimum credit limit will be required to provide additional disclosures, including a notice of the consumer's right to reject the account after receiving the disclosures if the consumer has not used the account or paid a fee, other than certain application fees. We also agree with this proposed change and would even support lowering the threshold from 25% to as low as 10%. The only concern raised by credit unions is the extent to which this restriction may apply to accounts that are secured by other accounts at the credit union, such as credit union share accounts. However, it is our understanding that this proposal will not apply in these situations since it will only apply to security deposits and fees charged to the account, and not to deposits and fees that are derived from other sources. We request that the Regulation Z official staff commentary clarify this point.

Use of the Term “Promotional”

The Regulation Z open-end proposal issued last year would have required creditors to use the term “introductory” or “intro” to describe a rate used in advertisements that is lower than the rate that would otherwise apply. The current proposal will require this term be used for new accounts and the term “promotional” be used if it applies to existing accounts, since “introductory” may not be the optimal term to apply to existing cardholders. Also, the proposal last year would have required the term “introductory” or “intro” to be used in connection with credit card checks that offer a discounted interest rate for an initial period of time, while the current proposal will require the term “promotional” to be used instead.

The reason for these changes is to ensure that the term “promotional” will apply to existing accounts, while the term “introductory” will be used for new accounts, as the Board believes that using the term “introductory” would not be the accurate term to use with regard to existing accounts. Although we understand the Board’s reasoning, we do not believe it is necessary to change this terminology. Consumers are familiar with and understand that the term “introductory” is associated with discounted rates. Using different terminology for new and existing accounts is a distinction that will be too subtle for consumers to recognize or be concerned about and will not serve the goal of clarifying these terms for consumers. The preferable approach would be to maintain consistency and to continue to use the term “introductory” for all types of accounts that offer discounted interest rates.

Effective Date

This proposal revises the comprehensive open-end proposal issued last year and is intended to complement and be consistent with the proposal recently published by NCUA, the Board, and the OTS that addresses unfair and deceptive practices as they pertain to credit cards and overdraft protection plans. Taken together, these changes incorporate very extensive and far reaching revisions to the Regulation Z open-end rules, and credit unions and others should be given a significant amount of time to prepare for these changes. For this reason, we believe that mandatory compliance should not be required until at least two years after all of these proposals are issued in final form. This time will be necessary to ensure credit unions and others have sufficient time to revise the Regulation Z disclosures, provide appropriate staff training, and implement the necessary data processing changes.

Although we realize two years is a significant period of time, we believe it is warranted under these circumstances. Over the years, the Board has issued numerous revisions to its consumer protection rules and has often delayed mandatory compliance for one year in order to provide financial institutions sufficient time to implement the necessary changes. This proposal and the

proposal issued last year incorporate changes that are much more comprehensive, which warrants delaying the mandatory compliance date for a longer time period, with a minimum of at least two years.

The Board has invested a significant amount of time in developing these extensive revisions to the Regulation Z open-end rules to ensure that they serve the needs of consumers. We request that the Board now provide credit unions and others with the amount of time they will need to ensure successful implementation of these changes.

Thank you for the opportunity to comment on the proposed changes to the open-end credit rules under Regulation Z. If you have questions about our comments, please contact Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 638-5777.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey P. Bloch". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Jeffrey P. Bloch
Senior Assistant General Counsel