



July 18, 2008

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

Subject: Docket R-1286; Washington Credit Union League Comments on  
Regulation Z Changes

Dear Ms. Johnson,

The Washington Credit Union League is the trade association for Washington's 131 credit unions. We appreciate the opportunity to commend on the Federal Reserve System's proposed changes to Regulation Z.

#### **General Requirements**

The League applauds the Federal Reserve Board's change allowing credit unions to provide disclosures electronically without first obtaining consent from the consumer, when the consumer requests the service electronically. This change will considerably streamline credit union operations without negatively impacting consumers.

The clarification that a consumer may need to pay some fees when rejecting a credit plan is helpful, as are the guidelines as to when a consumer has rejected said plan. It does, however, seem counterintuitive that a consumer has rejected a plan that (s)he has gone to the trouble to activate, whether or not there have been any charges made in the first 60 days. Activation of a credit card requires an affirmative act by the consumer—this is not done automatically by the financial institution. The consumer is actively engaging with the plan, therefore, it makes sense that the plan has been accepted.

Many consumers open credit card plans for emergency use and activate them immediately. It would be a disservice to these types of consumers to cause them to make a purchase on the credit card they are planning for emergency use only. The League urges the Federal Reserve to specify that activating a credit card is evidence of acceptance of the plan, not rejection.

In contrast, the League firmly supports the Federal Reserve's position that billing of fees by the creditor does not indicate acceptance or use of the plan. This billing does not require an affirmative act by the consumer, and therefore should not be indicative of acceptance. Automatic actions by the creditor have no bearing on whether or not the consumer uses or accepts the plan.

### **Applications and Solicitations**

Generally, the League supports the Board's actions to improve the clarity of the disclosures provided to consumers with applications and solicitations on open credit plans. The increased level of disclosure surrounding suspension of credit privileges and available credit will be a boon to consumers who wish to compare plans. These increased disclosures will also help those consumers who are comparing sub-prime credit options, as these types of plans tend to have more of the features that will trigger new disclosure requirements.

Additionally, we are pleased to see the Federal Reserve's plan to limit the disclosure of minimum finance charge or interest to those minimums that exceed \$1. Providing this de minimus exception will allow credit unions to simplify their disclosures when possible. The League is also pleased to see that this threshold will adjust with inflation—inflation is a reality in our economy and many regulations would benefit from a periodic adjustment for inflation.

### **Account Opening Disclosures**

The League was one of the supporters of the tabular format of disclosure for open-ended plans other than credit cards. This type of disclosure will assist consumers in evaluating a plan in a format they are familiar with. We are pleased to see that the Board has kept this tabular format disclosure and that it has provided credit unions with model forms and clauses to be used in compiling the new disclosure.

### **Subsequent Disclosures**

The League believes that the Board's proposed changes regarding checks that access credit cards are beneficial to consumers. If checks come with a promotional rate that is for a limited time only, consumers need to understand the temporary nature of the rate, so they can make an informed decision. Changing the terminology for this disclosure from introductory rate to promotional rate clarifies the disclosure significantly.

While the new requirement to disclose changes in account terms in a tabular format is a burden on credit unions, the League believes that this change will help consumers understand the changes. Much like our support for the tabular format for account opening disclosures, we believe that the consumer's need for clarity outweighs the inconvenience and expense financial institutions will need to go to, to implement these changes.

The Federal Reserve Board's proposal requires 45 days notice of a rate change resulting from the consumer's delinquency or default. The League believes that 45 days is too long a time. This length of notice will effectively mean that the credit union will have to wait two billing cycles before implementing the rate change. A 30 day notice would give consumers adequate warning of the change, and still allow credit unions to address the delinquency or default in a timely manner.

### **Crediting Payments**

The League is pleased to see the Federal Reserve Board establish a standard practice for payment crediting that seems fair to consumers without unduly burdening financial institutions.

## **Advertising**

The Board's proposal that deferred interest programs be fully disclosed is an admirable one. Many merchants and financial institutions offer 90 days same as cash or similar programs, and consumers generally are not given enough information to make informed decisions about their use of these types of programs. Nor are they given information necessary to avoid incurring interest charges inadvertently. The new requirements will remedy both those problems nicely.

The requirement that the word "introductory" or "promotional" be used in conjunction with a temporarily lowered interest rate along with disclosures of effective time and rate after the promotional period expires is an excellent one. The League wonders how these new requirements will apply to radio and television ads, however. We believe that these types of ads should state that the advertised rate is promotional and in effect for a limited time, but because of the nature of radio and television ads, the League believes that requiring further disclosures akin to those in print and electronic ads would be overly burdensome, unless the ads are longer than 30 seconds in length.

## **Unauthorized Transactions**

The proposed rule includes a provision that a consumer may not be required to sign an affidavit or police report to ensure a favorable resolution of an unauthorized transaction investigation. The League strongly opposes this change. Washington credit unions have been experiencing an increasing level of plastic card fraud for the past several years. Their insurance premiums have risen exponentially as have their deductibles for these losses.

While the League recognizes that requiring a consumer to sign an affidavit or a police report may have a chilling effect on a consumer reporting an unauthorized transaction, this chilling effect is small. The consumer's burden of submitting a written statement subject to the penalties of perjury is only reasonable when a financial institution is being expected to void transactions and bear the burden of a monetary loss. Without an affidavit (with its legal solemnity), what is to prevent a consumer from making a false report of fraud? Credit unions find that some unauthorized charges on a credit card stem from the card's inappropriate use by a relative of the account owner. However, whether or not the account owner is related to the perpetrator, the financial institution will bear the loss on the transaction. A financial institution should not bear the burden of these losses if a consumer is not willing to swear that the loss occurred.

If the Board must restrict a financial institution from seeking an affidavit from the account owner, a more reasonable compromise would have the Board restrict a financial institution from seeking an affidavit on de minimus losses, for example, aggregate losses totaling less than \$100. This would allow consumers to report and resolve small losses without undue burden, but would also allow financial institutions to minimize their liability in the case of fraudulent reporting.

## **Conclusion**

On the whole, the League believes that the Board's proposed changes to the regulations governing open ended lending are beneficial to consumers and minimally burdensome to financial institutions. Consumers will benefit greatly by the clearer disclosures proposed in the rule. However, with respect to several of the Board's proposals, the League believes that the financial and compliance burden proposed is

too high. Credit plans should be deemed accepted upon a consumer's activation of their plan. Credit unions should have the ability to address default or delinquency in a timely manner. And, most importantly, credit unions need to have a way to assure that their losses due to unauthorized transactions are actually due to unauthorized transactions and not fraudulent reporting.

Thank you for your time and consideration. We look forward to the final regulations.

Sincerely,  
Mary Sroufe  
Director of Regulatory Affairs  
Washington Credit Union League