

July 31, 2008

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-1314**, Proposal to amend Regulation AA, Unfair and Deceptive Acts or Practices

Dear Ms Johnson and the Federal Reserve Board of Governors:

Thank you for providing me with the opportunity to provide my comments to the Proposal to amend Regulation AA, Unfair and Deceptive Acts or Practices. As a 20 year veteran of the credit card industry, with much of that spent in the subprime sector, I feel not only compelled but also well qualified to offer my opinion on these changes.

First, let me say that I am a believer in strong regulatory oversight of our financial institutions as well as the role that those regulatory bodies play as protectors of the consumer. Our economic history has seen too many instances of financial institutions overstepping their bounds to the detriment of sometimes unknowing consumers. These actions cannot be permitted, and serve to create unnecessary criticism to an industry that has long provided fairly priced and accessible products to the American public.

The proposed amendments to Regulation AA, will not, however, have an impact on unscrupulous marketers of financial products. In fact, I believe that the changes will have the opposite effect, driving out legitimate providers of certain credit products and leaving a void which unsavory companies will no doubt find a way to exploit. Quite simply, the proposed changes will take credit opportunities out of the hands of millions of individuals. Those individuals will still have a need for that credit, and history has shown us that someone will find a way to fill that need, very possibly in a manner that is not in the consumer's best interest.

Further, the changes that you propose are unnecessary because, in my opinion, appropriate controls already exist to protect consumers from these so-called "Unfair and Deceptive Acts or Practices". While some of those controls are regulated, the majority have been put into practice by the industry itself as sound business practice. I will provide just a handful of specifics:

1. Your proposed changes are based on a belief that consumers are not able to avoid the "injury" caused by financing security deposits or other fees for the issuance and availability of credit. However, tens, if not hundreds, of millions of consumers have benefitted from these programs by being able to receive a credit product which has ultimately allowed them to build or re-establish credit,

and the costs of these products has thus allowed them to avoid higher financing costs on mortgages and auto loans. Further, most issuers that employ these practices of charging upfront fees and deposits to the credit line automatically refund those monies if the product is not used within a specific time frame, typically 30 – 60 days. Thus, consumers who claim to be unaware that the fees would be charged can get out of the product without paying anything.

2. Your changes support substantive restrictions on the structure of financial services products in lieu of focusing on more clear, meaningful and consistent disclosure language. Many issuers today go above and beyond what is required by law to disclose the fees and terms of their products. Changes over the years have made those disclosures more prominent and greater in scope. Your changes will serve only to restrict products from being available to the masses for the protection of the few individuals who choose not to read those very prominent disclosures. From having been involved first-hand in the defense of so-called deceptive marketing practices, I can state that in every case where a consumer made a claim that a particular term or fee was not disclosed, that claim was proven to be incorrect.
3. Your changes and associated commentary indicate that financial institutions, particularly credit card issuers, have the right to unilaterally change the terms of their contracts with consumers and that the consumer has no right to stop the change. Those beliefs are patently incorrect, as all material changes to credit card agreement carry “opt-out” provisions in which a consumer can choose not to accept the changes by simply cancelling their account.

The system as it exists today with respect to regulation of financial institutions works efficiently for both parties. Consumers are provided with adequate disclosure about the products which are made available to them, and issuers have at their disposal the tools with which to develop products needed by many segments of the population. Appropriate controls are in place from both a regulatory standpoint as well as from the market itself to allow for the protection of the consumer and also create an appropriate risk/reward business environment for financial institutions. Instead of focusing your efforts on imposing further restrictions on the products needed by the marketplace, the Federal Reserve Board should seek to empower consumers to make educated financial choices and then holding them responsible for those choices.

In summary, I am opposed to the proposed changes to Regulation AA, Unfair and Deceptive Practices Act, for the primary reason that appropriate controls currently exist within the marketplace. Further, these actions will only serve to take away access to credit to tens of millions of American consumers at a time when they can ill-afford it. In addition to consumers, many thousands of individuals work in industries that support these financial services companies, industries that would be decimated by the fallout of these proposed changes.

In the current economic climate, implementing these changes would be an economically irresponsible act taken by your Board.

Respectfully submitted,

Dennis Fish
Wilmington DE