August 4, 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 ("Proposal"). As a 15 year veteran of the credit card industry, and current President of a financial services company specializing in credit card lending to consumers with less than perfect credit, I feel both obligated and qualified to offer my opinion on your proposal.

Let me begin by saying that I believe in sound regulatory oversight of our financial institutions, including the role that those regulatory bodies play as protectors of the U.S. consumer. In recent history, there have been numerous instances when financial institutions have "crossed the line" to the detriment of the unknowing consumer. We should not tolerate these abuses and allow our sound financial system to be riddled with criticism, when that very financial system has done nothing but provide the U.S. consumers with fairly priced and accessible products.

The Agencies' proposal to prohibit institutions from charging to a consumer credit card account security deposits and fees for the issuance or availability of credit more than 25% of the initial credit limit in the first billing cycle and no more than 50% spread systematically over the first twelve months after the account is opened that, in the aggregate, constitute the majority of the credit limit for that account is without merit. For consumers with less than perfect credit, it is imperative that there be no limitation to the percentage of upfront fees billed to the account in the first billing cycle versus the initial credit limit, including any subsequent billing of monthly and annual fees. Competition in the marketplace, along with consumer demands will determine an acceptable fee structure.

History has shown in our business that 60% of new customers activate their credit card and use it. Within the first six months of the customer's account being opened, activated and used, approximately 50% of these accounts are charged off. Furthermore, within the first twelve months since the account open date, the cumulative account charge off rate increases to over 75%. Finally, for each static pool of new account originations, less than 15% of all originated accounts remain after twelve months from the account open date because of high default rates. As you can see from these statistics, there is significant risk of lending to consumers with less than perfect.

Quite simply, the Agencies' Proposal does not permit financial institutions to protect themselves against the upfront risk posed by these risky consumers. Because the propensity for these consumers to charge off very quickly is so great, providing them with more initial open-to-buy only adds to this risk, since a large portion of these consumers spend whatever initial open-to-buy is available and then never make a payment. The Agencies' failure to reconsider their stance on this portion of the Proposal will in all likelihood result in taking credit opportunities out of the hands of tens of millions of consumers today and force legitimate lenders to exit the market. Those consumers 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. At the very least, it will increase the cost of credit to everyone, regardless of their credit history.

A better solution to this issue is one that has already been put into practice by the industry, including our organization. More specifically, issuers who charge upfront fees and deposits to the credit line automatically refund or credit those monies if the product is not used within a specific time frame, which is typically 30 – 60 days. Thus, consumers who claim to be unaware of the upfront fees or deposits that are charged to the account can get out of the product without paying anything, by either calling to close the account or simply doing nothing and the account is systematically closed and all upfront account fees reversed, resulting in no financial obligation to the consumer.

Your Proposal is 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 of millions of consumers have benefited from these programs over the years by being able to receive a credit product, which has ultimately allowed them to build or re-establish credit. As I'm sure you are aware, the costs of mortgage and auto loans are typically determined based on the depth of a consumer's credit file. These fee-based products enable consumers to contribute to the depth of their credit file. In doing so, the cost associated with these products has allowed consumers to avoid higher financing costs on mortgages and auto loans.

The Agencies' Proposal presents substantial restrictions on the structure of financial products, rather than focusing on more clear, meaningful and consistent disclosure language. Many financial institutions already go above and beyond what is required by law to disclose the fees and terms of their products. In fact, changes over the years have not only made those disclosures more prominent, but also broader in scope. Unfortunately, not all consumers accept responsibility for reading the required disclosures and paying attention to key rates, fees and terms of the financial products. The time has come to hold consumers accountable if they choose not to read those very prominent disclosures. Your Proposal 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.

Your Proposal 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 reject the change. This misconception is absolutely unfounded, as all material changes to the credit card agreement carry "opt-out" provisions in which a consumer can choose not to accept the changes by

simply cancelling their account. Unfortunately, most consumers do not "opt-out", either because they have no objection to the change in terms or because they simply did not read the notification. In the case of the later, financial institutions should not continue to be held accountable for the inactions of the consumers.

The regulation of financial institutions works efficiently for both parties because consumers are already provided with adequate disclosure about the products which are made available to them, and financial institutions have at their disposal the tools to develop products needed by many segments of the population. Appropriate controls already exist 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 Agencies should seek to empower consumers to make educated financial choices and then holding them accountable for those choices.

In conclusion, I am opposed to the proposed changes to Regulation AA, Unfair and Deceptive Practices Act, because 1) appropriate controls currently exist within the marketplace, whether through existing regulation or sound business practice and 2) continued overregulation and disclosure only serves to confuse the consumers. These actions will only serve to eliminate credit opportunities to tens of millions of American consumers at a time when they can least afford it. In addition to consumers, there are many thousands of individuals who 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 the Agencies.

Respectfully submitted,

Stephen McSorley
Newark, DE