Empire Justice Center
119 Washington Ave. ◆ Albany, NY 12210
Phone 518.462.6831 ◆ Fax 518.462.6687
www.empirejustice.org

August 4, 2008

VIA EMAIL: regs.comments@federalreserve.gov

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-1314, Comment on Regulation AA

Dear Ms. Johnson:

I write on behalf of the Empire Justice Center with this comment in support of the Federal Reserve Board of Governor's proposed amendments to Regulation AA, which curbs unfair and deceptive credit card and overdraft practices. While we support many aspects of this rule, we feel there needs to be additional and stronger protections against these unfair and deceptive acts. We appreciate the opportunity to comment.

Empire Justice is a non-profit legal services organization in New York with offices in Albany, Rochester, White Plains and in Central Islip on Long Island. Empire Justice provides support and training to legal services offices statewide, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low-income individuals, as well as classes of New Yorkers, in a range of poverty law areas including consumer law.

The proposed Regulation AA would give consumers added protections but it is our position that the proposals should be strengthened to ensure that consumers are adequately protected from abuses by financial institutions.

We have heard from many individuals who find our name on the internet or through other service providers who have been charged excessive and unfair overdraft fees. One man who contacted us ended up with over $100 in fees for a less than $10 overdraft on his account. Federal preemption caused New York to roll back its $20 limit on overdraft fees and made it nearly impossible in New York for find a bank that does

not gouge its customers with these fees that are in all cases disproportionate to the harm and expenses incurred by the bank.

Reasonable Time to Make Payment

We agree with the proposal prohibiting credit card companies from treating a payment as late unless the consumer had a reasonable amount of time to make the payment. However, we believe that the reasonable amount of time should be extended to 30 days.

Amount applied to Different APR for many balances

We support the proposals to require credit card companies to apply payments more fairly to accounts with different interest rates and to prohibiting companies from denying consumers a grace period solely due to their failure to pay off a balance at a promotional rate. We also support the requirement that if the credit card company raises the interest rate on a category of transactions, everyone who holds that card and owes money must have five years to pay off the balance.

Outstanding Balances

We are in support of the proposal prohibiting institutions from increasing the APR on most outstanding balances.

Holds on the Account

We are in support of the proposal prohibiting institutions from charging fees where a consumer exceeded their credit limit solely due to a hold placed on their available credit by the institution.

Double-cycle billing

We support prohibiting a credit card company from using earlier billing cycles to calculate the interest for the current cycle.

Opening Fees

We support the proposal requiring that fees for opening an account and security deposits not exceed more than half of the credit limit and if they exceed 25% of the credit limit they must be spread over the first year. However we believe that the regulation could be strengthened by mandating the fees to not be more than 25% of the credit limit.

Multiple APR's

We are in support of the proposal requiring credit card companies when advertising multiple APR's or credit limits, to also disclose the factors that determine whether the consumer is eligible to receive the lowest APR and highest credit limit advertised. Furthermore, where a consumer is prescreened by a credit card company, that consumer should only receive advertisements for interest rates and credit limits that they would likely qualify for.

Overdraft Protection

Although we agree with the idea of providing the consumer with the choice to opt out of the payment of overdrafts, **we believe an opt in provision would be more beneficial and strengthen the protection offered to the consumer.** If the account then

does not have sufficient funds for the transaction, a debit card transaction should be denied rather than an approval with a resulting overdraft fee.

To further strengthen the proposal, there should be a limit to one overdraft fee per billing cycle. Additionally, although we agree with the proposal that an overdraft fee should not be charged if it is caused solely from a hold on funds, we feel that this provision should not only apply to debit holds but extend to credit holds as well.

Furthermore we believe that there needs to be a limit on how high credit card companies can make their penalty interest rates and on the length of time that a consumer can be kept at that high interest rate. Credit card companies also should be limited in the when they can increase the interest rates or change the terms of the card for any reason.

Thank you for the opportunity to comment on the Board's proposals.

Sincerely,

Kirsten E. Keefe
Senior Staff Attorney