

From: OSU Federal Credit Union , Richard S. Hein
Subject: Reg Z - Truth in Lending

Comments:

To the Board of Governors of the Federal Reserve System,

We appreciate the opportunity to comment on the interim final rule implementing those provisions of the Credit Card Accountability and Disclosure Act of 2009 (Credit CARD Act of 2009) that become effective August 20, 2009. For the purposes of this communication, our comments are confined to a single significant element of the interim final rule in relation to Title 1, Section 106 of the Credit CARD Act of 2009. This is the amendment to Regulation Z; Section 226.5(b) (2) (ii), applying to open end credit plans.

Our deep concern is two fold. First, we believe that there is a serious flaw in the construction of the Act because our original understanding was that Congress intended it to address predatory credit card lending, and unfortunately this is not the case. Secondly, the interim final rule has an enormous negative effect on the lending operations of our credit union and all other financial institutions using a multi-feature open-end lending plan (MFOELP).

Ironically, the intent of the law as reflected in its name was to address abuses in credit card lending. As a credit union, we conduct our credit card lending in a principled way. OSU Federal Credit Union, along with many other honorable financial institutions, did not create the conditions that necessitated the Credit CARD Act of 2009. Our credit card program already complies with the interim final rule and due to our lending practices requires no adjustment. Furthermore, we supported Congress's efforts to correct credit card abuse practiced by unscrupulous lenders.

Federal Reserve Board staff has maintained long standing commentary that has permitted the use of the MFOELPs. In 2007, when a proposal was made to apply closed-end disclosures to these plans, the proposal was withdrawn and the time-tested interpretation maintained. The effect of this interim final rule to implement the Credit CARD Act of 2009 is as destructive as the 2007 proposal. In defending the implementation date of August 20, 2009, the Board of Governors of the Federal Reserve System (Board) relies on commentary obtained prior to the Board announcing its credit card Regulation Z changes in January 2009. The announcement of request for public comment, published in the Federal Register on July 22, 2009, states: "Although the statutory provisions are not identical to the regulations in all respects, interested parties have already had an opportunity to comment on the core issues.⁵" The referenced footnote contradicts this assertion by identifying a 'core issue' that users of the MFOELP for non-credit card loans have not had notice about, let alone the ability to comment until now. Footnote 5 further states ".the mailing or delivery requirement for periodic statements in the interim final rule applies to all open-end consumer credit plans, while the analogous provision in the January 2009 FTC Act Rule applies only to credit card accounts."

The interim final rule has significant ramifications that go far beyond addressing credit card abuse. Therefore, we find ourselves, along with many others, having to comply with an interim final rule that not only hurts us; but also harms the consumer who has relied upon the MFOELP as a proven, beneficial,

cost-effective and efficient borrowing system for over a quarter of a century. Our members are ill served because the expense of compliance will need to be covered through other aspects of our operations.

A credit union is a member owned not for profit financial cooperative. By definition and practice, all profits are returned to the members, not stockholders. Products, services and procedures are deployed to promote the financial health and success of the member/owner while maintaining compliance with regulation.

We realize the Credit CARD Act of 2009 allows little flexibility for the Board in this matter; however, we believe the core issue raised by the enactment of this law that has not been previously vetted deserves, at the very least, a delay in the effective compliance date for the non-credit card MFOELP. We have no issue with the effective date for credit card plans, but strongly believe a delay is necessary in provisions related to non-credit card MFOELPs due to sizeable implementation issues involving operations, forms, vendors, data processing and member relations.

When applied to non-credit card loans under an open-end plan, the interim final rule's application of mailing the periodic statement a minimum of 21 days prior to the payment due date does not benefit our member. Individuals that have financed secured and unsecured loans have chosen a payment due date that meets their individual repayment preferences. Often these dates are based on receipt of income that is the source of repayment.

OSU Federal provides members with a consolidated monthly statement. Members appreciate the benefit of receiving one statement on a monthly basis. Beyond convenience, it provides ecological and economical benefit through minimized mailing expense and reduced staff time, as well as reduced paper cost and usage. As a financial institution that consciously looks to promote sustainable practices and provide convenient service, it was ineffective to consider producing even one additional statement to be delivered for the sole purpose of complying with the law.

Our 60,450 members have an estimated 25,000 open-end loans with outstanding balances and open lines of credit with no outstanding balance. Many more members have signed a MFOELP in anticipation of a future need but presently carry no balance or have no open line of credit. Of the 25,000 loans, 47 percent represent open-end loans other than a credit card loan. Many of our members have several sub-accounts under their plans and they do not all have the same due dates. In order to send a periodic statement based on the existing contractual due date, we estimate the added annual expense would be \$85,000 for mailings alone.

After full analysis, it was apparent that current borrowers will have their due dates changed to fit the law, thereby removing consumer choice. All future borrowers will be required to have a mandated contractual payment due date.

A further example of consumer disservice is illustrated by our low cost lending alternative to predatory lenders. Under the current MFOELP, we are able to originate a very short term loan as short as 1 to 30 days where the repayment date is tied to an individual's payday. Enforcement of the interim final rule forces a contractual payment due date that is at least 21 days past the date of delivering a periodic statement. Many borrowers are able to limit payday lending usage and reduce interest expense because the repayment date is

directly tied to payroll. A fundamental problem exists because the Credit CARD Act of 2009 has no provision for a one lump-sum payment for open-end loans. In order to achieve compliance on such short notice, we have accessed resources from various operational areas without the benefit of pre-planning. As a result, other projects and development efforts in process have been stalled. The scope of the effort involves at least 16 staff from executive management, audit, compliance, consumer lending, real estate lending, information systems, marketing and training. An estimate of time expended as of the date of this comment letter totals approximately 550 hours, the equivalent of more than three months time for a single employee. At the median salary of those involved, the expense to the organization is \$26,252. We anticipate further time allotments will exceed that exponentially.

Other expenses will include data processing changes, form updates and reprints, member notification, training materials and postage costs. We estimate those costs to be a minimum of \$5,000. Unquantifiable is the lost opportunity cost. As a member owned cooperative, all this loss is taken from our members, the tax paying consumer.

We request that the Board take the following immediate action regarding the interim ruling.

Extend the mandatory compliance for credit unions beyond the August 20, 2009 date.

We further request that the final ruling exempt non-credit card open end lending, such as those done under a MFOELP, from compliance, as Regulation Z allows changes to be made when it can be proven that there is an undue burden to compliance. The undue burden is not just to the financial institution in this circumstance, but more importantly the innocent consumer.

Sincerely,

Richard S. Hein
OSU Federal Credit Union