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August 10, 2009

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

VIA E-MAIL: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

**RE: Docket No. R-1364 Reg Z Interim Final Rule**

Dear Ms. Johnson:

The Minnesota Credit Union Network (MnCUN), representing approximately 150 member credit unions in the State of Minnesota, respectfully offers the following comments to the Federal Reserve Board's (Fed's) Regulation Z interim final rule implementing provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act) effective Aug. 20, 2009. The Network appreciates the opportunity to comment on the Fed's interim final rule, specifically Section 106 of the Credit CARD Act.

MnCUN supports the intent of the Credit CARD Act and the elimination of certain predatory credit card practices. Nonetheless, Section 106 of the Credit CARD Act applies to all open-end credit, a very common and popular lending product offered by credit unions. The new requirements for open-end credit, effective Aug. 20, are extremely demanding and burdensome for credit unions.

Section 106 requires that creditors have reasonable procedures in place ensuring that the periodic statement applicable to any open-end loan product is mailed to the borrower/member at least 21 days before the payment is due in order to assess a fee for late payment or otherwise consider the payment late. This seemingly simple provision causes a number of issues that are either very difficult for credit unions to comply with or, in the case of smaller credit unions with limited resources, nearly unachievable.

For a variety of reasons, Section 106's 21-day periodic statement requirement will cause significant problems for credit unions. First, credit unions, per the terms of their loan documents, may not be able to easily modify payment due dates. These pre-existing contractual obligations must be met but may cause non-compliance with Section 106 until the terms of

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the loan can be modified or the loan itself is amended pursuant to the contractual agreement. Therefore, credit unions may face some legal hurdles if the Aug. 20 effective date for the 21-day periodic statement stands.

Secondly, operationally altering the payment due dates on all open-end loan products is technologically challenging, as each data processing system is set up differently and with varying levels of sophistication and, consequently, varying abilities to modify certain information on such short notice. The operational and technological concern also lies in the time and resources needed to make the modifications. Many credit unions do not have excess staff time to modify data processing systems and/or each individual loan nor the resources to absorb a dramatic influx in costs such as those related to increasing statement quantities and mailings.

Thirdly, adjusting pre-existing payment due dates can result in consumer/member confusion. Many members have long-standing relationships with their credit union and are accustomed to the loan products that may have been offered for decades. Changing something as crucial as a member's loan payment due date can be both exasperating and confusing to the individual and/or family. Members often have the opportunity to designate a payment due date of their choice so as to best meet their needs. Likewise, members have been able to set up automatic payments to reflect the payment schedule that fits their financial situation. Changing the payment due date on the affected loan products will potentially cause hardship for members for both of these reasons.

Another anticipated member issue that will result from the change in payment due dates is the cessation of consolidated statements. Credit union members have expressed their preference for simplified, consolidated credit union statements that reflecting all existing accounts, loans, etc., that are delivered on an expected date. Due to the Section 106 periodic statement modification, many credit unions will be forced to dismantle their consolidated statement system and send separate statements to their members. Again, this will cause member confusion and will disregard members' requests to receive user-friendly, consolidated statements. In addition to the confusion and hardship that the concerns raised will cause to credit union members, these same issues will also increase credit unions' burden and staff time necessary to adequately address legitimate member concerns and questions regarding their payment due date.

Finally, little time has been provided for the Fed and other agencies to publish guidance on compliance with Section 106. As it stands, credit unions have a number of "ideas" on ways they can attempt to comply with the requirements effective this month, but they have no assurance that any one proposed method is correct. Without clear direction it is conceivable that many credit unions will bear the operational and financial burden of attempting compliance with Section 106 and ultimately their efforts will be found insufficient. In light of the economic environment and the challenges all financial institutions are facing, it seems prudent that the tools necessary to effectively and efficiently comply be provided prior to the effective date of these requirements.

Utilizing Section 105(1) of the Truth-in-Lending Act (TILA), the Fed is able to make adjustments to TILA requirements that are necessary in order to achieve the purposes of

TILA and compliance of the same. It is under this authority that MnCUN strongly encourages the Fed to reexamine the effective date for the Section 106 21-day periodic statement requirement to allow for the operational changes, issuance of further clarification and guidance, and other internal adjustments necessary at credit unions attempting to comply with the Credit CARD Act. An extended effective date will allow credit unions the necessary time to make internal changes with the least amount of negative impact on members and with the least cost to their member/owners.

Thank you for your consideration of MnCUN's comments on this time-sensitive and crucial final interim rule.

Sincerely,

Simone Suri  
General Counsel