



OHIO CREDIT
UNION LEAGUE

August 19, 2009

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-1364**
Comments on Regulation Z Rules Implementing the New Credit Card
Accountability, Responsibility and Disclosures Act of 2009 (CARD Act)

Dear Ms. Johnson:

On behalf of the Ohio Credit Union League (OCUL), this letter responds to the provisions of the interim final rule amending Regulation Z, the Truth-in-Lending Act, which become effective August 20. These provisions will: 1) require creditors to adopt policies and procedures to ensure that periodic statements for any open-end consumer credit account are mailed or delivered at least 21 days before the payment due date; and 2) require creditors to provide a 45-day notice of a change in the interest rate or other significant changes to the credit card agreement.

The comments reflected in this letter represent the recommendations of the Ohio Credit Union League, a state trade association representing the interests of Ohio's 407 federal and state-chartered credit unions and their 2.6 million members. We appreciate the opportunity to provide input - including recommendations, suggestions and feedback that provide fair and reasonable modifications as noted below.

Request for Relief of CARD Act Scope and Extension of Compliance Deadline

Credit unions in Ohio and the U.S. have always been proud of how they conduct their nonprofit, pro-consumer means of doing business, finding ways to provide innovative products and services that reduce member expense, providing lower-cost financial services, and embracing full consumer disclosure.

The credit unions of Ohio have a deep interest, willingness and desire to comply with the CARD Act, but in this case are finding compliance extremely disruptive, expensive and many times impossible to meet the current compliance deadline of August 20 for providing a 21-day advance notification on all open-ended lending contracts with their members. Credit unions do not have

problems with compliance with the credit card provisions of the CARD Act, but the extension of the 21-day requirement to include all open-ended lending contracts disrupts consumer-friendly, open-end lending programs and procedures that have been in place for over a quarter of a century. Credit unions have been innovators in the development of consumer friendly, multi-featured, open-ended plans and the use of consolidated periodic statements, and applying the new 21-day rule (which works fine with credit cards), rips apart the very core, nature and intent of these products which have always been in full compliance with Regulation Z and viewed favorably by federal and state examiners for decades.

It is clear to us that the intent of Congress was to curb abusive practices in the credit card industry. We believe that the Credit Card Accountability, Responsibility and Disclosures Act of 2009 will go far in accomplishing this goal. However, we do not believe that it was ever the intent of Congress to include all open-end lending contracts in its credit card bill.

The OCUL is extremely disappointed in the process of how key elements of the CARD Act were enacted. The broadening of the Act to include all open-ended contracts was drafted over the weekend of May 16-17 by the Senate Banking Committee, passed by the Senate on May 19, passed by the House without amendment on May 20, and signed into law on May 22. As a result, no hearings were held on this bill and no input was possible from credit unions or others.

Credit unions will do everything possible to fully comply with the new interim rules (although it will be impossible in our estimation to meet the August 20, 2009, deadline). The Federal Reserve should analyze and recognize that its rule mandates are inherently flawed and grant an extension of time for the credit union industry to explore, develop, and implement changes. The interim regulation was published in the Federal Register on July 22 and the effective date for compliance is August 20. This is not realistic, given that the changes mandated will take some credit unions an estimated six months to determine the current capabilities of their data processing systems, update software, modify periodic statement production and mailing, train staff, change lending agreements, and obtain legal reviews, etc.

Through no fault of its own, the current interim rule may expose the credit union industry to possible legal ramifications. We believe the Federal Reserve should do everything in its power to remedy this situation. We also believe it has a responsibility to do so.

Foremost, given that: 1) the ability to comment on the bill was thwarted; and 2) the rules were broadened to include all open-end lending that impacted primarily the credit union industry, **the Federal Reserve should use its powers to grant a significant delay in the current August 20 compliance deadline. The OCUL suggests a six-month delay, meaning a February 20, 2010 compliance deadline.**

Additional Compliance Problems Encountered

The OCUL is fully aware of the problems that its credit unions are encountering in doing everything possible in meeting the compliance mandates of the 21-day advance periodic statement rule. Some additional key problems/issues are outlined below:

- Over the years, many credit unions have contractually obligated their members to making weekly or bi-weekly payments on their open-end loans (not credit cards). This was done due to the unique nature of credit unions and their direct relationships with their sponsor member groups, authorized through their charter. These repayment arrangements are by the request of the credit union member and primarily due to employee pay periods. No specific guidance has been provided to address how credit unions comply with the 21-day periodic statement requirement in these circumstances.
- Credit union members have multiple loans under one open-end lending agreement and receive one periodic statement listing all due dates chosen by the member (i.e. auto, home equity loan, signature, boat, etc.). Does the Fed realistically believe that the member/consumer would rather receive separate periodic statements for each of these loans every month? This will increase credit union data processing, mailing, and staffing costs *dramatically* and will force credit unions to pass these added costs on to their borrowers. This is an example of how the CARD Act has created new and expensive “solutions” to a problem that never existed. It represents a lose-lose scenario for the lender and the consumer.
- Credit unions developed a successful alternative open-end payday lending product called "StretchPay," that limits annual percentage rates (APRs) to 18% vs. APRs of many hundreds of percents within the payday lending industry. Credit unions do not make money on this program, as it is offered as a means to help people through bad times, to get them back to using more mainstream financial products and services, and to steer them away from unscrupulous payday lenders who trap these borrowers into never-ending, expensive debt cycles. A 30-day payback is required for each \$250 to \$500 advance. Each advance must be paid back in full, then another advance may be taken, resetting the 30-day billing cycle.

No attorney has yet been able to determine how the new 21-day advance periodic statement requirement and new 45-day change-in-term rules apply to this product that saves low-income families significant money vs. the traditional pay-day lender. The 21-day rule, as currently written, is virtually impossible to implement with this open-end lending product. With the added 45-day change-in-terms requirement to reset the billing cycle for each advance, the StretchPay product (helping thousands of low-income members) could be decimated as we know it today. **We ask the Federal Reserve to exclude this type of product from compliance with the CARD Act.**

Conclusion

The OCUL fully supports the intent and provisions of the CARD Act interim rules that are effective August 20, 2009, but only as they apply to the credit card product. The intent of Congress was to

address the many credit card abuses that have developed over many years by lenders outside the credit union industry. Credit unions have had a long and proud history of providing consumer-friendly responsible lending products and services, including credit cards without abusive practices.

We do not believe that Congress intended for the CARD Act to include all open-end lending (it may have been simply a drafting error, given the expedited manner in which it was passed). Therefore, the OCUL strongly recommends that the Federal Reserve do everything that it can to eliminate/modify its rules that negatively impact lending outside the credit card product arena, and to delay the interim rule effective date until at least February 20, 2010.

The Ohio Credit Union League appreciates the opportunity to comment and provide input and recommendations on this critical issue. If you have any questions, the OCUL would be pleased to provide additional input or clarification. I can be reached at dshoup@ohiocul.org or (800) 486-2917, ext. 232. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "David J. Shoup", with a stylized flourish at the end.

David J. Shoup
Vice President, Regulatory Affairs

cc: Credit Union National Association (CUNA)