



December 24, 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-1367

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am writing in response to the Board of Governors of the Federal Reserve System's (Board) request for public comment regarding its proposed rulemaking regarding Regulation Z, which implements the Truth in Lending Act (TILA), and the official staff commentary to the regulation.

The Board's proposal would make changes to the format, timing, and content requirements for four types of home-equity lines of credit (HELOC) disclosures required by Regulation Z: (1) disclosures at application; (2) account-opening disclosures; (3) periodic statement disclosures; and (4) change in terms notices. The proposed rule also contains several consumer protection measures relative to account termination, suspension of advances and credit limit reductions, and reinstatement of accounts that have been suspended or which limit has been reduced.

General Comments

As NAFCU has stated on a number of instances, the regulatory changes that have been made recently, including the final rule issued by the Board in January earlier this year on open-end credit not secured by property, pose significant challenges and burden on credit unions. Ultimately, the changes may eliminate many favorable products and services being offered to the 92 million credit union members across the country. NAFCU believes that the Board's implementation of consumer protection-related laws, such as TILA, should take into account that credit unions are consumer-owned,

consumer-focused and exist, not to make profit, but to meet consumer needs. We strongly encourage the Board, thus, to approach regulatory changes from the perspective that takes into account that imposing undue burden on financial institutions across the board could, and in many cases would, negatively impact consumers.

Disclosures at Application

The proposed rule would replace the current requirement to provide a generic disclosure at application with a new, one-page disclosure summarizing basic information and risk about HELOCs. The proposed document is in question-answer format. This document would replace the current multiple-page disclosures of the creditor's rates and terms.

NAFCU generally supports the new disclosure. However, NAFCU respectfully requests that creditors be allowed to make specific modifications to the disclosure should that modification provide a definitive answer to a question. For example, if a creditor does not charge a pre-payment fee, it should be able to provide that information in the answer to the proposed question regarding pre-payments fees (question 6).

We also believe that credit unions should be allowed to supplement the one-page document with information about their own products, rates and terms. While the proposed rule does not appear to expressly prohibit the provision of such supplemental information, the fact that the discussion about the new document states that it replaces the current disclosures of a creditor's own rates and terms leaves some doubt about the intent of the proposed rule change.

Disclosures Three Days after Application

NAFCU supports the proposed rule requiring that HELOC disclosures be provided three days after application. We believe the timing is adequate and is consistent with both TILA's rules on closed-end credit secured by property, and the Real Estate Settlement Act of 1974's requirement that mortgage lenders provide a Good Faith Estimate of settlement charges. The consistency in timing requirements among the various regulations will facilitate compliance and ease operational challenges.

NAFCU also requests that the Board adopt the "general" definition of "business day" in § 226.2 of Regulation Z for the purposes of the three-day window. The general definition of business day is defined as a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. In comparison, the "more precise" definition of business day is defined as any day excluding only Sundays and specified holidays. We believe that the general definition, rather than the more precise definition is more appropriate because a substantial number of credit unions are not open to the public for carrying on substantially all of their business on Saturdays. With HELOC operations largely not functional on Saturdays, the number of days to conduct the necessary underwriting to provide transaction specific disclosures would be reduced to two days in many cases should the Board adopt the "more precise" definition.

Disclosures at Account Opening

The proposed rule would require that final disclosures be provided in tabular format at account opening about rates, terms, payments, and risks. The format is designed to be similar to the disclosures provided three days after application to facilitate comparison.

NAFCU supports the provision of the transaction specific disclosures at account opening. Both the proposed content of the disclosures as well as the tabular format, we believe, are appropriate.

However, it is not clear from the proposed rule or existing regulation what constitutes “account opening” in the context of HELOCs. To ensure that there is clarity and prevent undue confusion, we believe a clear definition that an account is deemed open when the loan is booked, would be appropriate and helpful.

Periodic Statements

The proposed rule contains a number of changes to the current requirements on periodic statements. NAFCU supports the proposed rule’s elimination of the disclosure of “effective APR.” We believe consumers do not find it useful and, in fact, likely causes undue confusion about terms.

In addition, the proposal would replace the requirement to identify any “finance charges” that have been added to the account during the billing cycle, with a requirement that creditors group all charges together and identify them as fees and interest charges, and provide separate totals of fees and interest for both the period and the year to date.

NAFCU also generally supports this proposed change. Further, this change would be consistent with the January 2009 final rule on non-home secured open-end credit. However, we believe the Board should not overlook the fact that implementing this change will be costly, which in the current economic environment is extremely difficult. Thus, we respectfully ask that the Board provides credit unions with ample time to implement this change.

Change in Terms Notification

Currently, a change in term of a HELOC may not take effect until 15 days after the notification of the change is provided. The proposed rule would substantially increase the time to 45 days.

NAFCU opposes the proposed change in timing of the change in terms notification. NAFCU is supportive of providing consumers adequate time to make financial decisions based on a change in term of their HELOC, including obtaining alternate financing. However, we firmly believe given that typical statement periods consist of at least 30 days, and the interest rate risk that exists due to fluctuations in the

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market place, 45 days is far too long. NAFCU emphasizes creditors would have little choice but to price that increased risk; thus, ultimately, increased costs would likely be borne by consumers.

Account Terminations

Under the proposed rule, a credit union would be barred from terminating an account for payment related reasons until the borrower has failed to make a required minimum payment for 30 days after the due date of the payment.

NAFCU generally does not have contention with this general prohibition. However, we note that Regulation Z currently provides that an account may be terminated for a number of reasons, including if the consumer's action or inaction adversely affects the creditor's security in that plan. To ensure that all parties' rights are clearly stated, we believe that that Board should clarify that the proposed prohibition on terminating an account for payment related reasons does not affect a creditor's right to terminate the account should the creditor's right to the security is adversely affected by the consumer's action or inaction.

NAFCU appreciates this opportunity to share its comments on the proposed rule. Should you have any questions or require additional information please call me at (703) 842-2268.

Sincerely,

Tessema Tefferi
Associate Director of Regulatory Affairs