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November 13, 2009

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-1370

Dear Ms. Johnson:

PSCU Financial Services, Inc. provides credit and debit processing services, as well as other services, to over 550 credit union ("CU") issuers who are members of PSCU. We are an active participant in the credit union industry. We believe credit unions that offer credit card programs continue to provide their members with very consumer-friendly policies. Several proposed TILA regulations could inhibit such consumer-friendly policies. We are pleased to provide the Board of Governors with comments in response to the Board's October publication of proposed TILA regulations.

Effective Date

The Board has requested comment on whether the original mandatory compliance date for certain regulations of July 1, 2010 would be appropriate. We believe that it would be a colossal mistake to accelerate the July 1, 2010 date for all Regulation Z provisions not covered by the CARD Act.

We believe retaining a July 1, 2010 effective date is appropriate for:
a) portions of the periodic statement under § 226.7(b)(3) and other disclosures, such as the application and solicitation disclosures under § 226.5a and §226.6(b);
b) disclosures provided with checks that access a credit card account under § 226.9(b)(3);
c) change-in-terms notices for non credit card accounts provided pursuant to § 226.9(c)(2); and
d) notices for non credit card accounts of a rate increase due to a consumer's default, delinquency, or as a penalty pursuant to § 226.9(g).

As you know, the July 1, 2010 requirements are preceded by a series of new requirements including the August 20, 2009 requirements and the February 22, 2010 requirements. We and our processor have devoted substantial time and resources to be able to meet the August and February requirements. In fact, we have just begun testing this month some newly available

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functionality developed by our processor to support some of the upcoming February requirements. For the majority of the February requirements, we will only have thirty days to test and implement new functionality for hundreds of issuers. We anticipate being able to meet the compressed timeframe for the February requirements because those requirements are mostly met through system development and programming, without detailed implementation of settings for each individual issuer.

The substantial work remaining to meet the February requirements simply does not allow time to accelerate the July requirements. Moreover, we do not yet have the functionality to test the July requirements and we do not expect to receive all of the developed functionality until April/May 2010. That functionality is very complex and takes many months to design, program, test and implement. In addition, it is extremely difficult to accelerate the July requirements because individual credit card statements are highly customized by issuers. Much of the functionality cannot be supported globally; instead, we will need to implement in far smaller increments, i.e. by issuer. In order to offer our credit unions with required functionality that is implemented in a way that supports compliance for their particular credit card program, we need all the time a July 1, 2010 effective date allows. The details to support compliance with the July requirements would make it virtually impossible to meet a more compressed schedule.

Given the extensive other changes that issuers and processors are addressing including the February requirements, and the detailed nature of the July requirements, we strongly believe that the original date of July 1, 2010 continues to be most viable date. Accelerating the date would not allow issuers sufficient time to test the new functionalities, which would likely cause major issues among millions of consumers.

Dual Notice for 60-Day Delinquency (Sections 226.9(c) and 9(g))

The ability of an issuer to provide consumers with a dual notice is essential to implement the Act as written. That is, an issuer that has already provided a 45-day notice of an increased rate due to delinquency should not be required to give a second 45-day notice in connection with applying an increased rate to the outstanding balance if a consumer becomes 60 days delinquent after the first notice is provided, but before the effective date of the change. This approach is consistent with the Board's clarification to the January 2009 Regulation Z rule.

Without clarification that such a dual notice is permissible, the Board could essentially eliminate the true 60-day delinquency exception contemplated by the CARD Act; it will essentially become a 105-120-day delinquency exception, well beyond what was provided for in the Act. There is no language in the Truth in Lending Act that requires an additional notice to be provided after the consumer has become 60 days delinquent. In fact, providing the consumer notice of the consequences of becoming 60 days delinquent as part of the initial delinquency notice would be more meaningful to consumers.

Proposed 226.54 - Partial Grace Period

With the October proposed regulations, we understand that issuers will have to be very careful with their disclosure language to limit partial grace to the month of transition from transactor (a consumer who pays the balance in full each month) to revolver (a consumer who does not). In

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the billing period after an account becomes revolving, all purchases would be subject to a finance charge until and unless the balance is paid in full.

Lastly, we recommend that the Board clarify that issuers are not required to describe application of the partial grace requirement when disclosing the balance calculation descriptions required by Sections 226.5a, 226.6 and 226.7. Requiring issuers to disclose the application of the partial grace requirement would add significant complexity and little meaning to already complex disclosures.

The new Partial Grace requirement provides:

"The Board proposes to implement this prohibition in proposed §226.54(a)(1)(ii), which states that, except as provided in proposed §226.54(b), a card issuer must not impose finance charges as a result of the loss of a grace period on a credit card account if those finance charges are based on any portion of a balance subject to a grace period that was repaid prior to the expiration of the grace period."

We have difficulty adapting the Board's sample language (from the December 18th Regulations) with the new Partial Grace Period requirement into a clear and simple disclosure that consumers can easily understand. We do not believe, absent sample language from the Board, that we can develop a disclosure that clearly and simply explains to a consumer how the Average Daily Balance calculation will be made.

If the Board determines that issuers must include in its grace period disclosure the application of the partial grace requirement, due to the difficulty in developing a new clear and simple disclosure, we respectfully request that the Board provide model language when the October regulations are made final. Absent the Board offering model language, we respectfully request that the Board consider postponing the disclosure portion of the partial grace February requirement (if not postponing the calculation requirement itself) until model language can be provided by the Board, and issuers have time to implement it, but in no event later than July 1, 2010.

51(a) General Ability to Pay

PSCU believes that consumer protection does not require that issuers verify information before a credit card account is opened or a credit line is increased. The new regulations restricting issuers' ability to increase interest rates, combined with the regulations on minimum payment calculation and payment allocation, will provide consumers with sufficient protections to help them understand the cost of the credit they have obtained. We believe the regulations should be revised regarding credit line increases.

PSCU recognizes the Board's position that issuers should use good judgment in allotting credit extensions. However, a significant part of managing a card portfolio includes making credit line adjustments. Normally, an issuer will target accounts through a qualification using credit bureau score and past performance to warrant a credit line increase ("targeted line increase"). Those periodic increases have allowed credit unions, who are often conservative in establishing original credit limits, to raise a credit line as the account matures. This targeted line increase can encourage the long term retention of the account by the consumer who otherwise might

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receive the larger credit line offer from another issuer and obtain credit elsewhere. Under the proposed regulation, the credit union is penalized for its conservative lending practice because it has lost its ability to raise the credit line as the consumer has demonstrated the ability to responsibly handle it.

If income and assets are required to be a part of the decision, an issuer would not have access to that information without input from the consumer. We believe the net effect of requiring income from the consumer prohibits the issuer from raising credit limits without the consumer initiating the request. Rather than restricting all credit line increases, we believe that increases are a legitimate part of a credit relationship over time and often needed by consumers. PSCU proposes an alternative to requiring issuer's to obtain income by the consumer in order to increase credit lines. In the alternative, issuer's should be permitted to meet the requirement to consider income by using income estimates based on the issuer's evaluation, or a third party's evaluation, of the consumer specific information from the issuer's own files and from the consumer's credit report or file maintained by a consumer reporting agency, in order to create a consumer-specific estimate. The Board already proposes to permit an issuer to rely on information on obligations from a consumer reporting agency, and the final rule should make it clear that an issuer can also rely on income information, including income estimates, received from a consumer reporting agency.

And an alternate way to protect consumers is after a targeted line increase, the issuer notifies the consumer of the additional credit available and the consumer has 15 days to opt-out of the credit line increase. We have experienced a 97% acceptance rate by consumers to this approach that is done without income verification today. Another alternative the Board could adopt instead is to allow an issuer to make credit line increases effective only after the consumer has opted-in.

Requiring income to be collected directly from the consumer will have a significant detrimental impact to consumers - - balance transfers will be inhibited. Suppose a consumer has a credit union credit card at 10% APR, but has used a commercial bank's credit card (with an 18% APR) to obtain rewards points. The consumer may qualify for more credit with the credit union's card but they will not do a balance transfer to the lower rate because they do not believe they have the credit available. Consumers may initiate a balance transfer request if they know they have the available credit, but they are less likely to ask for a credit line increase and wait for that to be processed and approved in order to transfer a balance. Again, we propose the issuer be allowed to utilize the targeted line increase, and then to offer the balance transfer promotion to those qualifying consumers. Without the issuer's ability to increase the credit line (without requiring income verification), the qualifying consumer will have missed the balance transfer offer.

Finally, under the proposed regulation, if a consumer requested an increase in credit, the issuer would have to build the process of debt ratio underwriting when the issuer already has information on file evidencing a cardholder's ability to pay. Issuers will be required to build new systems for Web, call center, and branch on-demand requests for line increases. Any such requirement would increase issuers' costs, and such increased costs would ultimately be passed on to consumers, far outweighing any perceived benefits to consumers.

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If the Board remains unconvinced that credit line increases in the above scenarios should continue to be an issuer-initiated tool, we propose an exception for any increase of $500 or less, so long as only one increase is done in a twelve month period. Many consumers do not understand the process of requesting a line increase or are intimidated by the process. For that reason, an issuer offering small line increases would likely extend credit to consumers who need the increased credit but would not have asked on their own. Also, by not being able to rely on more readily available empirical data, it limits the issuer's ability to offer consumers more credit when they qualify for it. That would be detrimental to many consumers who are eligible for and have earned a higher credit line than the line that was offered them in the conservative early period of account opening.

Continuing Application of 226.55
Proposed 226.55(d)(2)

PSCU believes proposed regulation 226.55(d)(2) is needed by consumers. The Board has asked if the acquisition of accounts should be treated as a continuation of the existing account relationship. In the absence of proposed 226.55(d)(2), allowing the buyer to purchase and subsequently reprice a credit card portfolio would allow large banks in particular to continue to actively buy and sell credit card assets with the single intent of repricing upward. In not regulating this practice, the Board would continue permitting any issuer to simply sell their credit card asset whenever the pricing or risk became uncomfortable. Issuers would focus strictly on their short term financial results to the detriment of consumers. Even where consumers can opt-out of the higher rate, they would need to seek additional extensions of credit elsewhere. Without the protections of proposed 226.55(d)(2), consumers' would likely experience an increase in APRs in the marketplace and a reduction in long term credit account relationships that benefit the consumer's creditworthiness rating.

58(e) De Minimis Exception

The Board has requested comment on the open account threshold of 10,000 for the de minimis exception.

We believe the de minimis exception should be set at issuers with 25,000 open accounts. We support a number of credit unions, many with smaller credit card portfolios. Many of our credit unions simply do not have excess staff to submit agreements to the Board and update such submissions on a quarterly basis. This requirement would be a burden on smaller credit unions with less than 25,000 accounts, many of whom have only ten employees. These credit unions can encourage their members to look to their website, not the Board's website, for information and assistance for account information. We respectfully submit that issuers with less than 25,000 accounts have historically not abused consumers like some large issuers have done, and that therefore a threshold of 25,000 will have little to no impact on consumer protections.

56(j)(2) Failure to Promptly Replenish

The Board has requested comment regarding whether the rule should provide a "safe harbor" specifying the number of days following crediting of a consumer's payment by which a creditor must replenish a consumer's available credit. We believe the opt-in requirement plus the added protection of limits on the number of overlimit fees per statement and in consecutive months are sufficient protections for consumers. The additional burden of having to meet a "promptness" requirement isn't needed.

Moreover, limiting overlimit fees, as the Board has done, does strike a balance between supporting the issuer's ability to manage its program and helping consumers. This regulation only impacts fees. Having a credit line exposure requirement is different because it isn't just impacting fees, its impacting the issuer's credit risk. For one payment, it's not a $20 fee that is lost, it could be thousands of dollars. Regulating promptness will regulate an issuer's credit risk, which should instead be left to issuers to manage.

Each issuer should have the discretion to determine the length of time to promptly replenish an account and may continue to do so as requested by the consumer, based on the credit union's credit history with that consumer. Current functionality exists, but is not commonly used, to set a payment float period that includes payments above a specific dollar threshold. Once a payment is received, finance charges stop on that part of the balance that has been paid but the credit line isn't immediately replenished. This is an issuer's protection from credit risk.

By issuing a "safe harbor", individuals with intent to defraud can still manipulate, say, a three day window prior to a payment made with bad funds being returned. Thus, we believe issuers should retain control over when to promptly replenish available credit, based on the account history and fraud management tools.

If the Board, nonetheless, does think a "safe harbor" is needed to ensure the fullest consumer protection, we can offer a standard we use that was included in an earlier comment letter. Our CUs usually issue credit on the account 3 days after a payment by check is made. Our experience has shown that replenishing the credit any sooner exposes our CUs to much higher check-kiting and fraud losses. We have not found that accepting payments past the due date but before the cycle date has a negative impact on consumer's availability of credit. Another alternative could be to define promptness as one day after payment is made, except for large dollar amounts as determined in the issuer's reasonable discretion, which would be subject to a three day timeframe for crediting.

Promotional rates

PSCU requests that the Board clarify the start date for the requirement that promotional rates be offered for a minimum of six months. We believe that the 6-month minimum period should start on the date the promotional program is first offered and available for use by the consumer. Any other date (e.g. the date of the first transaction under the program or the individual dates of each transaction) would be very difficult if not impossible to track.

Completion of over-the-limit transactions without consumer consent

Section 102—Form G-25(A)

Under Section 102, Model Form G-25(A), PSCU requests that the words "...we will decline..." be replaced with the words "...we may decline...". We believe this adjustment is consistent with 226.56(2), where the Board has provided that "a creditor *may* pay any over-the-limit transaction on a consumer's account provided that the creditor does not impose any fee or charge on the account for paying that over-the-limit transaction." Issuers such as credit unions are very consumer- oriented and may want the ability to voluntarily allow accounts to go over limit

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without an ability to charge the consumer an overlimit fee, in order to better service the consumer.

Summary

PSCU appreciates this opportunity to submit comments on the Board's proposed changes to Reg Z. If you have any questions or would like additional information on these comments, please contact the undersigned at (727) 561-2227.

Sincerely,

Steven A. Salzer
Chief Strategic, Compliance and Legal Officer

PO Box 31112 Tampa, FL 33631