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September 21, 2009

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. R-1364

Re: Interim Final Rule Implementing the 90-Day CARD Act Provisions

Dear Ms. Johnson:

This comment letter is submitted on behalf of Applesseed, the national office of a nonprofit network of 16 independent public interest justice Centers in the U.S. and Mexico, in response to the interim final rule ("Interim Final Rule" or "Rule") issued by the Federal Reserve Board ("Board") to implement provisions of the "Credit Card Accountability Responsibility and Disclosure Act of 2009" ("CARD Act" or "Act").

Applesseed appreciates the opportunity to comment on this important matter. Given the passage of the CARD Act of 2009, which codifies and in some places significantly modifies the final amendments to Regulation Z, we believe it is critically important that the Board seek to promote transparency, simplicity, fairness, accountability and access in the market for consumer financial products and services by requiring credit card issuers to engage in fair dealings and transparency in pricing.

In this regard, the Board should ensure that:

- Consumers have, understand and can use the information they need to make responsible decisions about consumer financial products or services;
- Traditionally underserved consumers and communities have access to financial services;
- Markets for consumer financial products and services support true competition and remain sustainable and innovative;
- Consumers are protected from abuse, deception, discrimination and financial pitfalls; and

- Disclosure of all costs, including those in the quoted fee for financial products or services, exchange rate fluctuations and other indirect costs, are provided to consumers in a clear and conspicuous manner that is designed to call attention to the significance and magnitude of the information.

Appleseed and its Centers are dedicated to building a society where opportunities are genuine, access to the law is universal and equal and government advances the public interest. Appleseed has convened industry, regulatory and community stakeholders and piloted a fair exchange disclosure template for remittances, conducted numerous studies and has come to be guided by a set of “Fair Exchange Principles” which we believe produce optimal consumer understanding of complicated financial products and promote a comparative, cost-based analysis of products.

Further information on Appleseed’s Fair Exchange pilot can be found at <http://www.appleseednetwork.org/Portals/0/Documents/Publications/FE%20Final.pdf>

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Appleseed has the following specific comments on the Interim Final Rule:

Consumer Rejection of Increase in Rate or Other Significant Change in Terms

The Interim Final Rule requires an issuer to provide the consumer the right to reject the change before the effective date of the change in each 45-day advance notice. The Interim Final Rule does not require such a right to reject: (1) when the minimum periodic payment is increased; (2) where the consumer’s minimum periodic payment has not been received within 60 days after the payment due date; or (3) for transactions engaged in by the consumer that occur more than 14 days after the 45-day advance notice is provided.

- **Appleseed supports this aspect of the Interim Final Rule.** Providing consumers advance notice of significant changes and rates increases along with the right to cancel or opt out of a change is essential. In particular, requiring financial institutions to provide consumers notice and the right to opt out or cancel certain changes to the terms of the account empowers consumers to take appropriate actions and to take greater responsibility for their very own financial matters. For instance, after receiving notice of a change, consumers can use such information to shop for other products and services and to the extent appropriate, exercise any right to cancel or opt out. In many instances, consumers might switch to products or services with terms that are more suitable or desirable.

- **In addition, Appleseed recommends that the Board clarify the application of, and disclosure requirements for, the exception to the right to reject for transactions that occur more than 14 days after provision of the notice.** The Office of the Comptroller of the Currency (“OCC”) recently issued a bulletin stating that “under the rules, the new rates or terms can be applied to any transaction that occurs more than 14 days after the notice is provided.” In addition, the OCC directed national banks to include an additional disclosure that “NOTE: Even if you reject this change in terms, the new terms will be applied to any transactions on your account that occur on or after [insert date].” We believe that the additional disclosure required by the OCC should be reconciled with the Board’s disclosure standards to avoid any consumer confusion. It is possible that the disclosure of two dates on the 45-day notice could be confusing to consumers if not presented in a straightforward and understandable manner.

Reasonable Time to Make Payments

The Interim Final Rule implements the Credit Card Act requirement that prohibits creditors from treating payments as late or from imposing additional finance charges relating to a grace period unless statements are mailed 21 days in advance of the payment due date and any grace period expiration date. The Rule retains the overall direction of the earlier rule relating to unfair or deceptive acts or practices adopted by the Board and two other agencies in December of 2008.

Specifically, section 226.5(b)(2) of the Interim Final Rule adds language to Regulation Z requiring creditors to adopt reasonable procedures designed to ensure that statements are mailed or delivered at least 21 days before the payment due date and before the expiration of any grace period. In particular, the Rule provides that “[a] creditor that fails to meet this requirement shall not treat a payment as late for any purpose or collect any finance or other charge [as] imposed.”

- **Consistent with the principle of fairness, Appleseed also supports this aspect of the Interim Final Rule.** Given the consequences associated with making a payment late, we believe that it is essential that consumers be provided with sufficient time to receive statement information and make arrangement to make timely payments.

Sincerely,



Betsy Cavendish, Executive Director



Annette LoVoi, Director, Financial Access and Asset Building Program

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