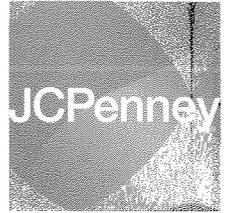


April 12, 2010

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20551



Every Day Matters  
jcp.com

Re: Docket No. R-1384, Truth In Lending Act, Regulation Z

Dear Ms. Johnson:

We are writing to express our concern with certain aspects of the latest proposed changes to Regulation Z scheduled to take effect on August 22, 2010. As discussed more fully below, we request that the Board of Governors of the Federal Reserve System (the “Board”) take our concerns into account in establishing the regulations governing the reasonableness and proportionality of penalty fees—particularly late payment fees. For the reasons below, we believe that customers will be best served by a balanced approach. If late payment fees are set too low, pricing will increase for all customers, customer benefits may be reduced, and retail sales will suffer.

***Background***

We are an apparel and home furnishings department store retailer with 1,110 locations and over 150,000 employees. Like many other retailers, we have arranged for a bank to provide “private label credit cards” to our customers that can be used to make purchases in our stores. Our private label credit program (the “Program”), including the entire structure and pricing of the Program under our agreement with our bank program provider, is designed to enhance customer loyalty, provide customer benefits, and drive our retail sales. It also saves us money because we settle private label sales directly with our program provider and do not pay interchange fees on those sales.

Today, our private label customers enjoy:

- Exclusive offers through out the year at JCPenney
- Earn an extra 25 percent in JCP Rewards points when shopping with the card
- On-line account management including access to account information and ability to pay on line
- Fraud protection with zero fraud liability for unauthorized use

Retail sales made on our “private label credit card” represent a significant percentage of our total sales. Changes required by our program provider will result in increased credit costs for us and potentially reduce our overall sales.

**JCPenney**  
6501 Legacy Drive  
Plano, TX 75024

### *Concerns*

The Board seems to believe that up front fees such as interest, annual fees, and account servicing fees are more transparent than late payment fees. We disagree and believe that our customers understand late fees, especially now that a late payment warning and a disclosure of year-to-date fees is required on every billing statement. If late fees decrease substantially, we anticipate that APRs will increase. We do not believe this would be a good result for our customers since such an APR increase is likely to affect more customers than just those paying late.

Late fees are avoidable. They are clearly disclosed in the Schumer boxes and, under new regulations, on every statement. And as we understand it from our program provider, customers who pay late, default at a higher rate than customers who do not. Moreover, customers have every opportunity to pay on time, especially given the new requirements for fixed due dates and at least 21 days from the time the bill is mailed until the payment due date.

We understand the effect the economic downturn has had on our customers. Some simply cannot pay their debts on time right now. But many others have handled credit responsibly. In either case, setting unreasonably low late fees is not a reasonable answer to their situation if the end result is higher interest rates for everyone.

### *Implications*

While we understand the need for balance in setting the amount of the safe harbor, we are concerned that the current environment may lead the Board to set the amount too low. In addition to the above concerns, setting the safe harbor amount for late fees too low would have the following undesirable implications:

- We would be unable to afford to provide an equal level of benefits and discounts to our credit card customers as we provide today. We would have no choice but to work with our bank partner to raise credit card costs in other ways, or to cut back on customer benefits.
- Certain credit segments may no longer qualify for credit and credit availability will shrink—this will hurt our sales as well as our customers' ability to get credit to purchase what they need.
- General purpose credit card issuers (whose cardholders generally carry higher balances and are required to make higher payments and who make a larger proportion of their income on annual fees and interchange) will be benefited while private label card programs will disproportionately suffer. Because our private label program is so important to our sales and is less expensive to us than other tender types, we believe this is an important consideration.

### *Suggestions*

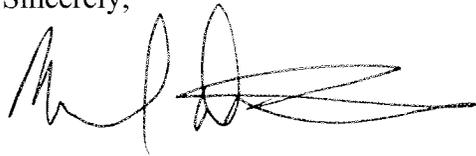
We believe a flat safe harbor dollar amount (in addition to the 5% of the required minimum payment, whichever is higher), as the Board has proposed, is absolutely necessary to ensure adequate deterrence and to promote fairness. It would not be good for anyone if losses were to increase as a result of an artificially low safe harbor.

We suggest the flat safe harbor amount be no less than \$29. We appreciate that the Board is collecting data as a basis for the safe harbor, but we also think the Board must consider today's marketplace reality as a starting point. If the current late fee levels are lowered to the \$29 range, late paying customers would get a very meaningful benefit and responsible customers who pay on time would still have to shoulder a significant cost they are not paying today. In contrast, setting the safe harbor below this range would be too dramatic a cost shift for customers and many in the industry. We expect that such a dramatic shift would significantly reduce the availability of credit and the benefits of private label programs for retailers and customers.

In addition to our comment on the substantive rules, we have one transition rule request. Because we offer credit at the point of sale through our bank program provider, we are very concerned about the timeline involved in changing out credit applications in time for the August 22 implementation deadline. We already are working with our program provider to reprint and redistribute all collateral for the July 1 effective date of the Schumer box and other changes. Given the fact that the proposed rules came out behind schedule, it will not be possible to replace all applications again to reflect the penalty fee changes between the time the final rules are promulgated and August 22. For this reason, we ask that we be given a transition period of at least 120 days after the final regulations are promulgated to replace credit applications. Our bank partner would of course comply with the substance of the rules as of the effective date—the transition is only to give all involved parties a chance to design, produce and distribute applications to our stores.

We appreciate the opportunity to comment and would be pleased to answer any question you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Dastugue', with a stylized flourish at the end.

Michael Dastugue  
Senior Vice President - Finance