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Subject: Regulation Z - Truth in Lending

Comments:

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April 14, 2010 Ms. Jennifer J. Johnson Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Ave, NW Washington DC 20551 Re: Regulation Z: Truth in Lending, Federal Reserve Board Docket No. R-1384 Dear Chairman Bernanke, Members of the Board, and Board Secretary Johnson: On behalf of D• mos, a nonpartisan, not-for-profit public policy and advocacy center, I appreciate the opportunity to comment on this proposal to amend Regulation Z and implement certain provisions of the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 (P.L. 111-24). This proposed rule takes a significant step towards reigning in penalty fees, one of the most abusive aspects of the credit card market. But the Board must go further to ensure that all penalty charges remain reasonable and proportional and that consumers who have faced recent interest rate hikes are afforded a proper review, as the CARD Act requires. One welcome protection in the proposed rule is the requirement that penalty fees be proportional to the infraction. In 2008, D• mos conducted a large-scale national survey on the causes and consequences of credit card debt among low- and middle-income Americans, which clearly demonstrated that dwindling savings, stagnant wages and medical debt have forced many Americans to turn to credit cards as the de-facto safety net. The Board's proposal will begin to help these families escape the cycle of debt. Nearly one-half of all households surveyed by D• mos reported they had been late on a payment and charged a fee as a result-on average, four times in the last year. A survey of card issuers found that credit cards charged up to $39 for a late payment or exceeding the credit limit. The average late fee was $28.19 and the average over-the-limit fee was $31.89. Such high fees do not accurately reflect the risk assumed by a bank that extends credit to a customer who exceeds his or her credit line by a few dollars, or submits a payment mere minutes after the deadline. The Board must

ensure that the "safe harbor" fee amount for penalty fees or charges that can be used by issuers without making any determination regarding cost or deterrence also results in penalty fees that are reasonable and proportional to the violation. D• mos urges the Board to strengthen and simplify the safe harbor provision by eliminating the choice element currently contained in the proposal. Allowing the issuer to pick the higher of the two safe harbor formulas does not reflect either the cost to the issuer or a necessary amount to deter future action. In addition, we ask the Board to set the safe harbor to 5% of the violation, not to exceed $10. This would cover infractions up to $200. To charge more for violations exceeding $200, a bank should have to demonstrate that the fee is reasonable and proportional using the cost or deterrence analysis. Although the Board proposal would require reasonable limits on penalty fees, it does not address the size of penalty interest rate increases, hence limiting the potential benefits of the legislation for consumers. Credit card issuers have been known to double or even triple interest rates when they determine a customer has broken their rules. The average penalty or default rate in 2009 was 25.28 percent. The highest penalty rate was 31.99 percent. Fifty-one percent of respondents in the D• mos survey who made a late payment in the previous year reported that their interest rate had gone up as a result. For cardholders who carry a balance-the average credit-card indebted household in our survey reported that they had been in credit card debt for five years -penalty rates can have devastating long-term effects. The statute clearly states that any and all penalty fees and charges should be "reasonable and proportional." Penalty interest rates cost consumers billions of dollars in higher finance charges and should be explicitly limited by the rule. D• mos recommends limiting penalty rate increases to no more than 50 percent above an account's original rate. (For example, a 12 percent interest rate could only be increased to an 18 percent penalty rate.) This would still provide the issuer with adequate and reasonable protection against payment risk. The CARD Act also mandates that interest rate increases based on factors such as credit risk or market conditions be reviewed after six months, and that the rate be reduced if appropriate. However, although the proposed rule would require issuers to review all rate increases made since January 1, 2009, the first review would not be required until February 2011. In the run-up to the implementation of the Act, credit card issuers increased a variety of fees, such as foreign transaction, cash advance and balance transfer fees, hiked interest rates and converted fixed rates to adjustable rates for millions of customers. This assault on customers' contracts spurred Senae Banking
Committee Chairman Chris Dodd (D-CT) to propose the immediate freezing of interest rates on existing balances for the estimated 700 million credit cards in circulation. The House Financial Services Committee voted to move up the effective date of the legislation from February 2010 to December 2009 in order to speed protections to beleaguered cardholders. The CARD Act calls for a timely review of interest rate hikes. We believe that banks should begin to review increased interest rates as soon as the regulations go into effect in August 2010. The need for fair standards in credit card lending has never been more pressing. I encourage you to implement strong rules to put in place the critical protections CARD Act promises for millions of Americans struggling to stay afloat in the midst of the worsening economic crisis.

Sincerely, Tamara Draut