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FOUNDED 1866

April 26, 2010

By Electronic Delivery

Ms. 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-1384

Dear Ms. Johnson:

In response to the Board of Governors of the Federal Reserve System's request for comment on the Regulation Z penalty fee proposal, attached please find data and analysis that I am submitting on behalf of a financial institution that is a large credit card issuer. The data, analysis, and representations in this letter are those of the financial institution. The purpose of the submission is to support the concept of a tiered late fee approach in the final rule.¹

The financial institution believes that the attached analysis indicates a strong correlation between repeated delinquency occurrences and eventual account charge-offs.

The financial institution analyzed a representative prime, near prime, subprime, and retail portfolio. For each, the financial institution observed a representative set of accounts from origination through their first 36-months. Accounts were grouped according to the number of late fees the account incurred within the first six, 12, or 24 months of the account's life. The unit default rate, defined as the number of accounts that charge off within the 36-month observation period divided by the number of accounts booked, was calculated for each group. The default rate for each group was indexed to the default rate for the group with no late fee incidence.

This analysis supports the concept of a tiered late fee approach (*i.e.*, an approach that allows the card issuer to increase the penalty fee based on the number of occurrences within a certain time period). The analysis shows that a 12-month interval for measuring late occurrences applies higher fees to accounts that are significantly riskier. Although a 6-month interval accomplishes

¹ This submission does not include data regarding the recommended amounts of such fees for purposes of a safe harbor. I am confident the Board has received such information elsewhere as part of the comment process.



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this as well, it does so to a lesser degree. A 24-month interval, on the other hand, while establishing the greatest risk separation may create an undue hurdle for customers. The financial institution believes the tiered fee approach is appropriate, given the increased costs associated with, and need for additional deterrence of, repeat delinquency occurrences which more frequently result in account charge-offs.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Very truly yours,

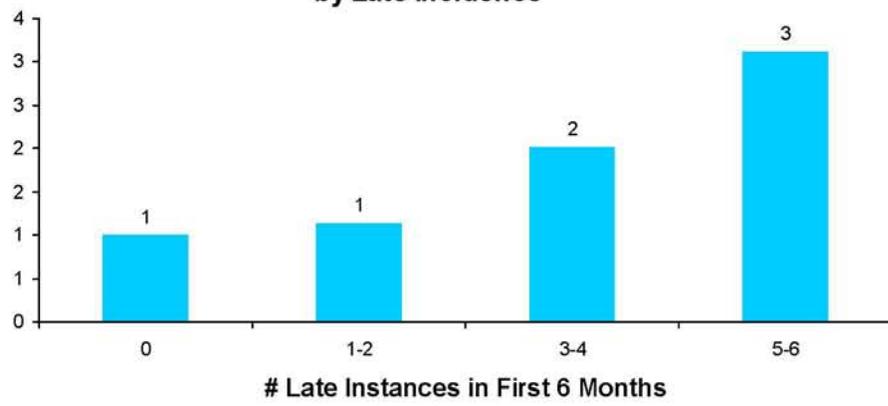
A handwritten signature in black ink, appearing to read "John K. Van De Weert".

John K. Van De Weert

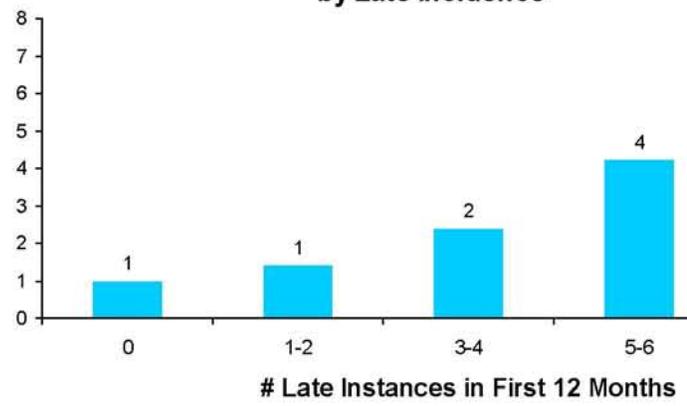
Attachment

Subprime

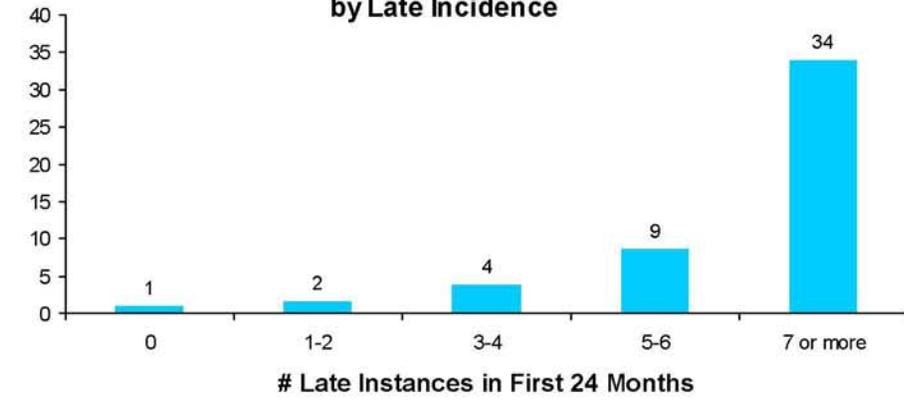
**Indexed Default Rate
by Late Incidence**



**Indexed Default Rate
by Late Incidence**



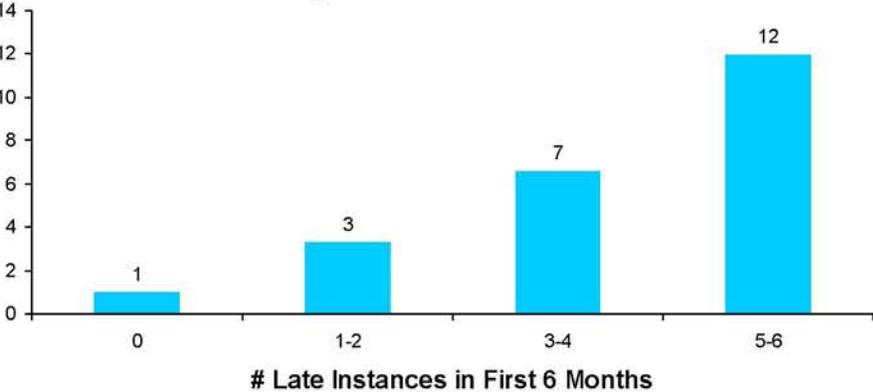
**Indexed Default Rate
by Late Incidence**



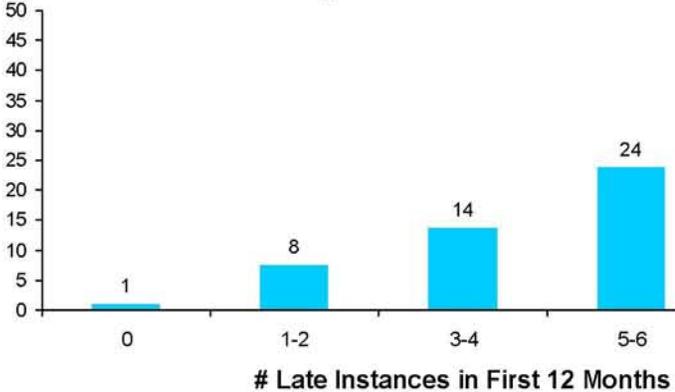
Note: Indexed Default Rate based on 3-year cumulative charge-off incidence

Near Prime

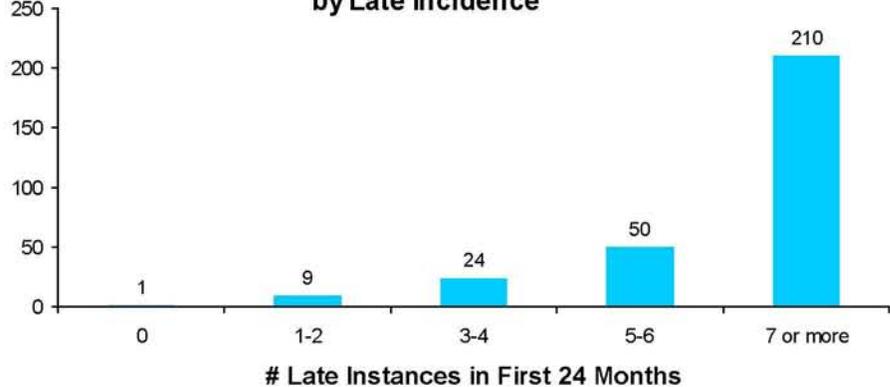
Indexed Default Rate by Late Incidence



Indexed Default Rate by Late Incidence

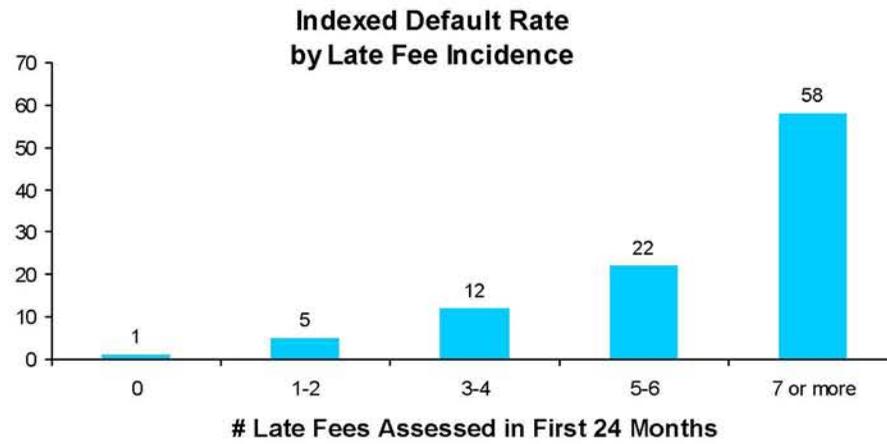
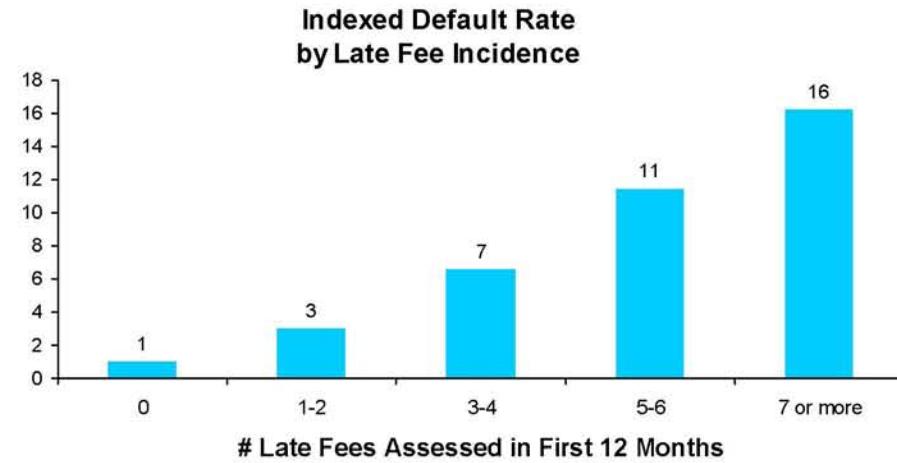
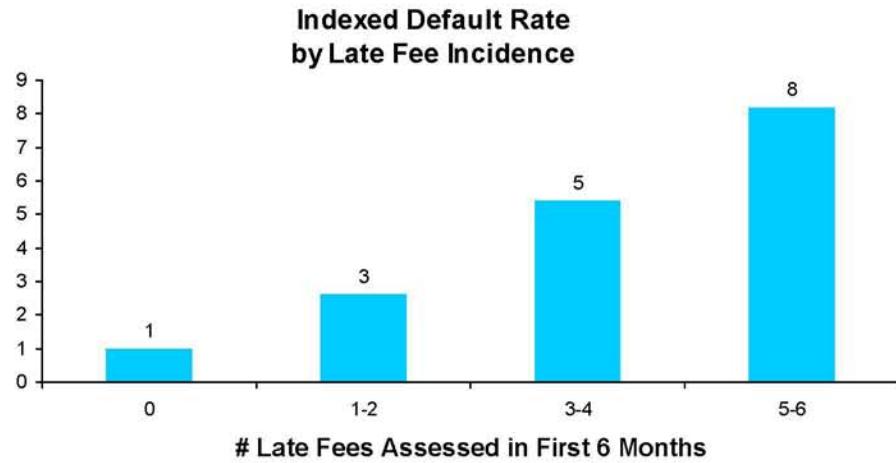


Indexed Default Rate by Late Incidence



Note: Indexed Default Rate based on 3-year cumulative charge-off incidence

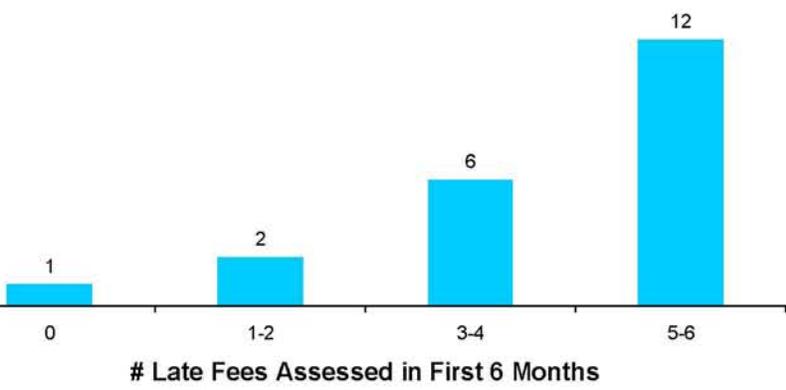
Prime



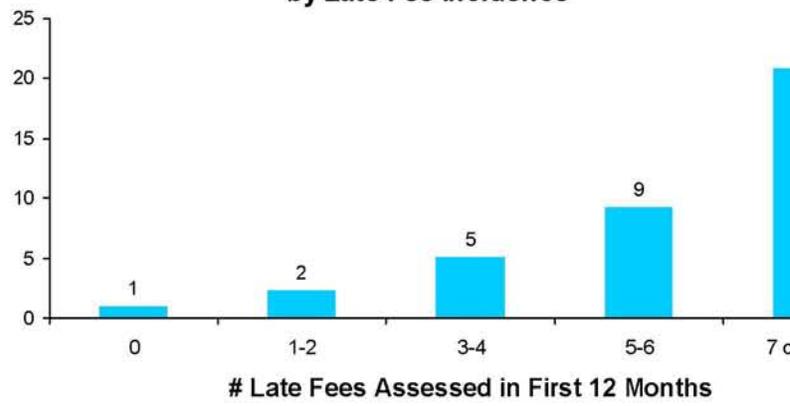
Note: Indexed Default Rate based on 3-year cumulative charge-off incidence

Private Label

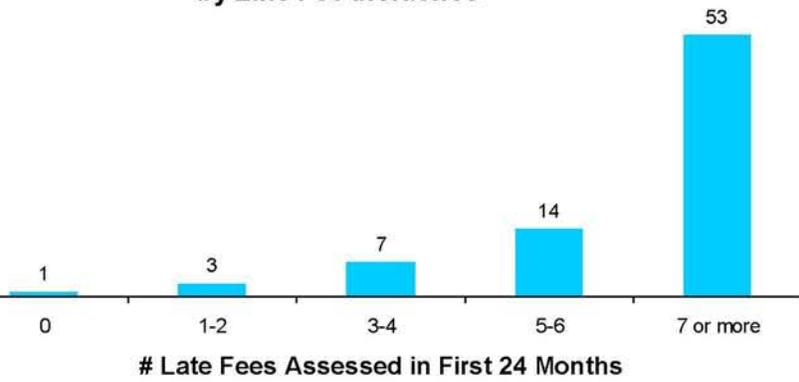
**Indexed Default Rate
by Late Fee Incidence**



**Indexed Default Rate
by Late Fee Incidence**



**Indexed Default Rate
by Late Fee Incidence**



Indexed Default Rate based on 3-year cumulative charge-off incidence