



HOLDING COMPANY

12345 WEST COLFAX AVENUE LAKEWOOD, COLORADO 80215 303-232-3000

April 9, 2010

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Avenue, NW.
Washington, DC 20551

VIA ELECTRONIC SUBMISSION

Re: Regulation Z; Docket No. R-1384; March 15, 2010

Dear Ms. Johnson:

This letter is in response to the request for comments on the proposed rulemaking under Truth in Lending issued on March 15, 2010. The following comments address the proposed prohibition of imposing a fee based on account inactivity and the semi-annual re-evaluation of rate increases implemented after January 1, 2009.

Under section 226.52 Limitations on fees, the proposal states "A card issuer must not impose a fee for violating the terms or other requirements of a credit card account under an open-end (not home-secured) consumer credit plan when there is no dollar amount associated with the violation." It goes on to specifically reference "(2) Account inactivity" as a fee with which there is no associated cost to the issuing bank.

The issue of concern to us is that the proposal does not consider that there are real dollar costs associated with all credit card accounts, including those that are inactive. More specifically, for any account there are costs such as overhead, Internet infrastructure, personnel, and mailing. Additionally, inactive accounts still require annual privacy disclosures and may still require monthly statements.

The proposal also fails to consider the less tangible costs associated with dormant accounts - primarily, the risk of loss to the bank should the card become compromised. In our experience, fraud losses are often the direct result of consumers who are no longer actively using their credit card, but have not requested the closure of the account. We use inactivity fees, in part, to prompt action on the part of the account holder. We generally refund the inactivity fee if the customer contacts us and indicates they have no intent of using the account. In fact, of the fees that we assess, approximately 75% are refunded. Clearly, the fee is not a significant income generator, but is rather a tool to lower the risk exposure of accounts with no activity.

Under section 226.59 Reevaluation of rate increases, the proposal states that for any rate increases made after January 1, 2009, the card issuer "must review changes in factors in accordance with [the credit risk of the consumer, market conditions, or other factors] not less frequently than once every six months after the initial rate increase."

We recognize that the review requirement was included in the Credit Card Accountability Responsibility and Disclosure Act of 2009, and, as such, the Board must issue rules to implement this provision. It is unfortunate that the entire industry, including many small issuers such as ourselves, must be penalized for the actions of a few large card issuers.

Our credit card rates are set for our entire consumer card portfolio and do not vary for individual cardholders. Like most small issuers, our rates are variable and are determined by utilizing a market index, such as the Wall Street Journal Prime Rate, and through market surveys. We have historically made small, pricing adjustments based on market conditions. This has resulted in small increases of our margin over the index in times when the index is low, as well as reductions to our margin over the index when the index is high. Additionally, we conduct market surveys of other card issuers, and adjust our pricing for competitive reasons.

We believe this "methodology" for determining rates is appropriate, and wish not to be constrained to more difficult policies that attempt to encompass the broad association of individual credit risk and the market. While the data necessary to conduct such a review may be readily available to a large issuer, it is much more difficult for a smaller issuer to obtain. Requiring us to produce and maintain such data will be overly burdensome and unnecessary.

The proposed rule also leaves little incentive for an issuer to ever lower interest rates on cards issued after January 1, 2009 when market conditions change. Assuming a card issuer lowered an interest rate due to favorable market conditions, a subsequent change in conditions that would prompt a rate increase would trigger the review requirement. As such, an issuer may choose to never lower a rate due to the desire to not have future increases subject to coverage. The Board's rulemaking should address this issue with the inclusion of a provision that subsequent rate increases after a rate decrease will not fall under the review requirement as long as the rate does not go above the card's original rate for cards issued after January 1, 2009 or the card's rate as of January 1, 2009. This change will benefit consumers as it takes away a disincentive for issuers to lower rates and it will benefit issuers by providing needed flexibility.

Finally, the proposal requests comment on expiration for the requirement to re-evaluate rate increases. The rule in its current form requires card issuers to re-evaluate rate increase indefinitely. A limitation on the number of times this review must be conducted is imperative. The proposal provides an example of five years, however, this seems too long as market conditions change on a much more frequent basis, and rates would, in all likelihood, be adjusted prior to this expiration. A more realistic expiration of the review requirement would be a maximum of twenty-four (24) months.

Our institution did not engage in any of the practices that were considered abusive and targeted by the CARD Act legislation. While we

would not disagree that abuses by larger issuers may have occurred, the majority of community banks did not and would not charge exorbitant fees or rates to our customers. As such, we urge you to narrow the scope of the prohibited fees, and truly allow for issuers to determine their own reasonable methodologies for re-evaluation of rate increases.

Thank you for your consideration of our comments. If you have any questions or need clarification on any issue we have raised, please contact me at (303)235-1353.

Sincerely,

Jeff Asher, CRCM
Senior Vice President