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April 15, 2011

Ms. 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-1407, RIN No. RIN 7100-AD66; Docket No. R-1408**  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

cc:  
Federal Trade Commission  
Office of the Secretary  
Room H-113 (Annex M)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
**Attention: FCRA Risk-Based Pricing Rules Amendments: Project No. R411009**

Dear Ms. Johnson:

This comment letter is submitted on behalf of Appleseed, the national office of a nonprofit network of 16 independent public interest justice centers in the U.S. and Mexico, in response to the notices of proposed rulemaking ("Proposed Rules") issued by the Federal Reserve Board ("Board") and the Federal Trade Commission ("FTC") (collectively, the "Agencies") to implement Section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 1100F of the Dodd-Frank Act amends Section 615 of the Fair Credit Reporting Act ("FCRA") to require creditors who use a credit score in connection with the granting or extension of credit to include such score, and related information, in the adverse action and risk-based pricing notices provided to consumers. The Agencies are proposing to amend their respective risk-based pricing rules to reflect this new requirement. The Board is also proposing to amend model notices in Regulation B, which implements the Equal Credit Opportunity Act, to reflect the new content required by Section 1100F.

Appleseed appreciates the opportunity to comment on this important matter. We believe it is critically important that the Agencies continue to promote the informed use of consumer credit by requiring creditors to provide clear and conspicuous information in all consumer disclosures, including both risk-based pricing and adverse action notices. We believe it is important that the Agencies seek to promote transparency, simplicity, fairness, accountability and access in the market to financial products by requiring issuers to engage in fair dealings and transparency in pricing.

In this regard, the Agencies should ensure:

- Simplicity: Consumers should have, understand and be able to use the information to make responsible decisions about consumer financial products or services.
- Access: Traditionally underserved consumers and communities must have continued access to financial services.
- Accountability: Markets for consumer financial products and services should support true competition and remain sustainable and innovative.
- Fairness: Consumers should be protected from abuse, deception, discrimination and financial pitfalls.
- Transparency: Disclosure of all costs, including those in the quoted fee for financial products or services, exchange rate fluctuations and other indirect costs, should be 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” that 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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### **General Comments**

Appleseed generally supports the Proposed Rules as the disclosure of credit scores and other related information to consumers will promote simplicity, access, accountability, fairness and transparency.

- Simplicity: The Proposed Rules will encourage delivery of disclosures that are easy to understand as the proposed model forms highlight a single credit score.
- Access: The Proposed Rules will provide traditionally underserved consumers with important information that may be used to encourage those consumers to improve their credit history and facilitate improved access to financial services.
- Accountability: By requiring the disclosure of credit scores, the Proposed Rules will make financial institutions accountable as consumers will now have an additional piece of information that can be used to ensure that the information used by the financial institution in the credit decisionmaking process is accurate and correct.
- Transparency: The Proposed Rules will promote transparency by requiring a creditor to disclose an important piece of information used by the creditor to determine the qualification of the consumer for the financial product offered.

### **Model Forms**

The Agencies have provided model forms that may be used by creditors to comply with the risk-based pricing requirements of the FCRA. Under the Proposed Rules, the Agencies are now proposing to add two new model forms. Appleseed strongly encourages effective, understandable disclosures for consumers and supports the Agencies' provision of model forms. We believe that the use of model forms will help ensure that disclosures provided by creditors are uniform. Further, we believe that the proposed model forms provide the required disclosures in a clear and simple format, which will enhance the ability of a consumer to easily obtain information about his or her credit history. Specifically, the disclosure of one credit score will provide the consumer with valuable information in a manner that should not unnecessarily confuse the consumer. We are concerned, however, that the disclosure of four, or possibly five, factors that adversely affected the consumer's score could unnecessarily complicate the disclosure and make it difficult for the consumer to focus on the essential one or two factors that impacted the consumer's score.

### **Exclusion of the Credit Score of a Guarantor, Co-Signer, Surety, or Endorser**

Proposed Section \_\_.73(a)(1)(ix) and \_\_.73(a)(2)(ix) would require a person to disclose a credit score and information relating to a credit score when the credit score of the consumer to whom it grants, extends, or otherwise provides credit or whose extension of credit is under review. However, the Agencies would not require a person who only uses a credit score of a guarantor, co-signer, surety or endorser to set the terms of credit for the consumer to whom it extends credit or whose extension is under review to provide a credit score in the general risk-based pricing notice or account review notice. We support the aim of the Agencies to ensure that a consumer receives only that information which is relevant to the consumer and, consequently, support the Proposed Rules' exclusion of a credit score from the general risk-based pricing notice where the

creditor only uses a credit score of a guarantor, co-signer, surety or endorser. We concur that a credit score of one person should not be disclosed to another person. However, we believe that to the extent the credit score of the guarantor, co-signer, surety or endorser was used in setting the terms, and such credit score resulted in the offering of less favorable terms to the consumer, a statement should be included in the risk-based pricing notice that informs the consumer of this fact, without disclosing the credit score itself.

### Multiple Credit Scores

Proposed Section \_\_.73(d) would permit a creditor who uses two or more scores in setting the material terms of credit to only disclose one of those credit scores and other related information on the notice to the consumer. Appleseed supports this aspect of the Proposed Rules. The disclosure of multiple credit scores could result in "information overload," which could potentially confuse consumers. We believe that the disclosure of one credit score, even where multiple scores are used, should provide a consumer with sufficient information to inform the consumer.

\* \* \*

Thank you for your consideration of our views. If you have any questions concerning these comments, or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact Betsy Cavendish, Executive Director, Appleseed at 202.237.1403, or Appleseed Field Director Annette LoVoi at 512.542.0082.

Sincerely,



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