



January 3, 2011

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-1393 and RIN No. 7100-AD55
Via email: regs.comments@federalreserve.gov

Dear Ms. Johnson:

PSCU Financial Services, Inc. ("PSCU") is a credit union service organization ("CUSO") and a cooperative owned by over 550 member credit unions. We provide credit and debit processing services, as well as other services, to our members. We are an active participant in the credit union industry. We believe credit unions that offer credit card programs continue to provide their members with very consumer-friendly policies. Many industry observers have concluded that the card programs of credit unions are very consumer friendly. We are pleased to provide the Board of Governors with comments in response to the Board's October publication of proposed TILA regulations.

Mandatory Compliance

In an earlier comment letter (November 12, 2009), we stated that the volume of requirements and the functionality required to meet those requirements does not allow time to accelerate upcoming requirements. The same holds true today. The August 22, 2010 requirements are preceded by a series of new requirements including the July 1, 2010 requirements, the February 22, 2010 requirements and the August 20, 2009 requirements. We and our processor have devoted substantial time and resources to be able to meet the requirements over the past two years.

We recommend that the Board follow the regulatory schedule established by TILA for updating Regulation Z and related staff interpretations. Specifically, we recommend the Board issue the final rule in April 2011 and make compliance optional until October 2011. As was historically the case, reviewing and revising Regulation Z at a specific time each year, with a consistent mandatory effective date each year, would facilitate efficient compliance programs and policies.

PO Box 31112 Tampa, FL 33631

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Given the extensive other changes that issuers and processors are addressing, we strongly believe that the original date of final regulations in April 2011 with an implementation effective date that is optional until October 2011, is necessary to provide sufficient time to meet the requirements.

Transitional Guidance

PSCU requests that the Board issue transitional guidance making it clear that the final rule only applies to accounts opened after the effective date of the final rule or to changes in accounts that occur after the effective date of the final rule. At a minimum, we request the Board address the fact that issuers routinely offer waivers or rebates of rates or fees in various individual customer service requests. Consumers are accustomed to the discretionary nature of an issuer's decision to grant waivers and rebates. The Board should issue transitional guidance that no notice requirements or limitations under Section 226.55 are necessary for any waiver or rebate of a rate or fee that occurred prior to the effective date of the final version of the Rule.

Ability to Pay (Section 226.51)

PSCU requests that the Board allow an issuer to accept household income and not require cardholders over age 21, such as non-working spouses, to demonstrate the individual ability to pay in order to obtain credit. The basis for the Board's consideration of expanding the individual ability to pay provision is its desire to not apply different standards to those under the age of 21 and those over the age of 21 on the principle of equity. We believe that there is a strong basis for maintaining separate standards because the standards for those under the age of 21 are quite frequently based on an expectation of emancipation and, with it, assuming the responsibility to pay for one's own debts and an understanding of the responsible use of credit.

Our society requires significant preparation by an individual to manage steady employment and provide for one's own shelter, utilities and food, and it is often necessary to delay true emancipation from a parent or older family member until well into one's twenties. This is true whether a young adult attends a university or simply needs to obtain sufficient work experience to earn a living wage to build one's life as a self-sufficient adult. It runs contrary to the American value of earning self-sufficiency, to lower the independent ability to pay standard to apply to all, including non-working spouses. Non-working spouses have elected to provide a value to society that isn't measured in dollars. Conversely, the yet-to-be emancipated young adult should be encouraged to develop the financial education needed to responsibly manage credit, including an understanding of sustaining the ability to pay. This financial education may not assume the highest priority in the early stages of that young adult's pursuit of accomplishments. The proposed rule confuses this achievement with the financial realities of the 50 year old homemaker who participates as a partner in the management of the home.

PSCU believes the Equal Credit Opportunity Act ("ECOA") has met the objective of protecting equal access to credit while recognizing the economic and sociological circumstances of non-working spouses. The ECOA protections for non-working spouses should not be dismantled by the proposed rule.

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Promotional Rebates and Waivers (Section 226.59(e))

PSCU believes that a rebate or a fee waiver is not considered promoted when it is provided in connection with a consumer accommodation such as to resolve a dispute or maintain a relationship, a hardship or workout program, or another customer service policy of the issuer. We request that the Board clarify that a silent but regular waiver practice in connection with customer retention, collection, dispute resolution or other account servicing policies and procedures would not be covered by the Rule even if the practice is applied on a regular basis.

Rate Reevaluation (Section 226.59)

We agree with the proposed clarification that if there is no rate increase at the time of the change in terms from a non-variable rate to variable rate, then the rate reevaluation requirements are not triggered. Conversely, we do not agree with the proposed requirement that an issuer needs to conduct a rate reevaluation when the variable rate (on an index not controlled by the issuer but was previously disclosed) increases. Since the movement of the variable rate upwards would not trigger a 45 day notice, we do not believe it should require a review. The decision for many of our credit unions to move to variable rate pricing was strongly a result of the earlier guidance from the Board that variable rates would not require 45 day notice. Such review would serve no policy purpose, since the rate increase is imposed by the index itself, rather than by the issuer.

Should the Board ultimately decide to require a review of accounts due to movement of an index not under an issuer's control, PSCU asks the Board to clarify that an issuer would not need to return a variable rate back to a non-variable rate as part of its account review. PSCU also asks the Board to provide clarification that following the first review of these accounts, the issuer has met the review requirement and may remove these accounts from future reviews.

Limitations on Imposition of Penalty Fees (Section 226.52)

PSCU believes the Board should encourage issuers, for public policy reasons, to waive penalty fees in connection with disputes, collections or for retention purposes. Accordingly, the Board should revise the Rule to permit an issuer to impose a \$35 fee for a second violation, even where the issuer elects to waive all or part of the first \$25 fee. Otherwise, consumers will lose out because issuers will stop waiving the first fee. Our credit unions routinely, upon request by the consumer, waive penalty fees as a part of dispute resolution, collection or for retention purposes. We believe that the cardholder disclosures, describing the first and subsequent penalty fees, would not create consumer confusion simply because a first penalty is "forgiven". Quite the reverse would apply - - if the disclosures cannot be consistently relied upon to outline the escalation of penalties, consumers will not come to expect the other information in their account disclosures to have consistency either. An issuer's discretion for forgiveness of penalty fees is better supported, and the impact is more consumer-friendly, when the issuer retains the ability to positively adapt to consumer circumstances.

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Credit Card Definition (Section 226.2(a)(15))

The Proposed Rule indicates that an account number used to access a line of credit to make certain purchases would be included in the definition of a credit card. Commentary Section 226.2(a)(15)-2 proposes that a "credit card account under an open-end (not home-secured) consumer credit plan" would include an "account number [that] can access an open-end line of credit to purchase goods or services." Under the proposed clarification, the potential result could be that any account number associated with a line of credit would be considered a credit card. We believe that a line of credit should not be considered a credit card for purposes of Regulation Z where the account number is merely used for identification purposes or for processing purposes, rather than to actually access funds from the line of credit for making purchases. We also believe that an account number should not be viewed as a credit card if the related account is not accessed directly, but instead functions as an overdraft line of credit for a non-credit transaction account.

PSCU understands the credit industry offers numerous types of credit accounts accessed in some way by an account number and that these accounts were not opened as or intended to be credit card accounts. The proposed regulation could significantly change the regulations that apply to these accounts. Accordingly, we respectfully request that the Board, in its final rule, recognize that most credit accounts can be accessed in some fashion by an account number and expressly clarify that it does not intend for all open-end credit plans with account numbers to be deemed to be credit cards. The commentary should clarify that only an account number that provides a direct means of providing access to the line of credit to make purchases is deemed to be a credit card.

In the absence of additional clarification from the Board, we are concerned that the scope of the credit card provisions would overlap with the regulations for existing debit and prepaid card regulations. This is of particular concern in light of the publication of proposed debit Interchange regulations. The proposed debit Interchange regulations raise many questions about the definitions of credit, debit and prepaid cards. We realize the proposed Interchange regulations weren't published until after the October 19th proposed CARD Act rules were published. We think the issues of credit card, debit card and prepaid card definition are more complex than the brief discussion in the October 19th proposed CARD Act rules. We are concerned that the Board's October 19th proposed CARD Act rules for credit card definition could create unintended consequences with respect to debit cards and prepaid cards. We respectfully request that the Board delay final rules on credit card definition until the impacts to those definitions are more thoroughly considered, discussed and understood particularly in light of the proposed debit Interchange regulations.

Check Disclosures (Section 226.9(b))

The Board has proposed that additional disclosures be provided for checks which access a credit card account offered when those checks offer a variable rate of interest. PSCU requests that the Board eliminate this requirement. PSCU believes that since variable rate disclosures will have been previously provided to the consumer, additional disclosures about variable rates contribute to information overload by the consumer. Moreover, many issuers have already

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been forced to discontinue certain convenience check products because of the complexity of the current disclosures. Unfortunately, this included checks on demand (when a consumer calls and requests the convenience checks). These issuers have lost the ability to offer promotional rates to consumers who request them. We would anticipate that additional disclosures on the checks will further delay the ability to restore this service to consumers. Ultimately, the consumer loses when fewer promotions are offered by issuers.

Conforming Payments (Section 226.10(b))

The Proposed Rule would treat all payment methods that are made available to a consumer as “promoted” and, therefore, as conforming payments. We believe this approach is overly broad and does not adequately distinguish between payment methods that are “promoted” and payment methods that are merely “permitted.” We recommend that the Board clarify that by merely informing the consumer about a payment method (e.g. including a comment on billing statements that payments can be sent by ACH or wire transfer or having an IVR option that allows consumers to direct payments over the telephone), an issuer is not promoting a payment option. In addition, we ask that the Board confirm that promoting the ability to make an expedited payment through the use of a live customer service representative does not preclude an issuer from charging a fee for the expedited service.

Account Opening (Sections 226.52(a)(1) and 226.55(b)(3)(iii))

PSCU requests that the Board revise the amendments to Account Opening regulations §226.52(a)(1) and §226.55(b)(3)(iii) to specify that an account is considered open on the date it is opened on the issuer’s system. The Board’s proposal that an account is considered open no earlier than the “date on which the account may first be used” will create an excessive burden on issuers. Issuers today systematically track the new account based on the date the account is opened on the issuer’s system and issuers have revised their policies and procedures to meet §226.5(b)(1)(i) based on that system-open date. Requiring issuers to implement and track a different date would add expense to credit card programs without offering consumers a meaningful benefit.

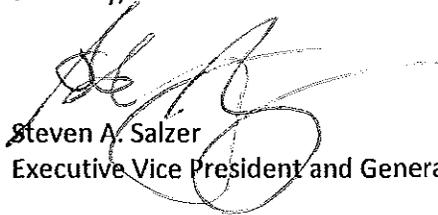
The CARD Act also is not consistent with defining an account opening date as “the date on which the account may first be used by the consumer to engage in transactions”. Issuers have relied on TILA §127(n)(1) which refers to the “first year during which the account is opened”. We believe consumers understand the account is open and credit is available upon receipt of the card in the mail, but may choose not to activate the credit card until months later. We respectfully request that the proposed amendments §226.52(a)(1) and §226.55(b)(3)(iii) should be revised to clarify that an account is considered open when the account is opened *on the issuer’s system*.

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Summary

PSCU appreciates this opportunity to submit comments on the Board's proposed TILA regulations. If you have any questions or would like additional information on these comments, please contact the undersigned at (727) 561-2227.

Sincerely,



Steven A. Salzer
Executive Vice President and General Counsel