

From: Marc D Morgan
Subject: Reg Z -- Truth in Lending

Comments:

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Proposal: Regulation Z - Truth In Lending Act
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Comments:

The following comments are provided regarding: Docket No. R-1393; RIN 7100-AD55
Proposed rule to amend Truth-in-Lending (Regulation Z) Section 226.52
Limitation on Fees The proposed rule would change the CARD Act passed by
Congress and the implementing regulations by including pre-account opening fees
in the 25% limitation during the first year after the account is opened. The
proposed rule specifically states that "there has been some uncertainty as to
whether those limitations apply to fees that a consumer is required to pay
prior to account opening". In addition, the proposed rule states that the
current practice is consistent with the current language of section
226.52(a)(1), the Board believe that it is inconsistent with the intent of
Section 127(n)(1) insofar as it disturbs the statutory relationship between the
costs and benefits of opening a credit card account. I object to the Board's
conclusion that Congress intended for something other than what was passed into
law. Section
105 of the CARD Act specifically states: If the terms of a credit card account
under an open end consumer credit plan require the payment of any fees (other
than any late fee, over-the-limit fee, or fee for a payment returned for
insufficient funds) by the consumer in the first year during which the account
is opened in an aggregate amount in excess of 25 percent of the total amount of
credit authorized under the account when the account is opened, no payment of
any fees (other than any late fee, over-the-limit fee, or fee for a payment
returned for insufficient funds) may be made from the credit made available
under the terms of the account. There can be no mistake how the law was written
and passed by Congress. If all fees were to be included in the Act, the law
would have been written that way and not leave it up to the rule-writers. The
Act goes on to make the point even more clear that fees assessed prior to
opening are not subject to limitation, except for those already
prohibited by law: No provision of this subsection may be construed as
authorizing any imposition or payment of advance fees otherwise prohibited by

any provision of law. Finally, the authority of the Board to "effectuate the purpose of Section 127(n)(1)" is being far exceeded and is in fact changing the Act without due process of Congress. Therefore, I would urge the Board to not adopt the proposed rule to restrict pre-account opening fees that are not charged to the account. It is the intention of such laws to "protect" the American consumer and in providing such "protection" the freedom of choice has been taken away from the American consumer. The ability for company's to offset the risk involved in lending with fees prior to opening simply increases the ability for such company's to continue to provide a necessary service of building credit. The need for access to credit is loud and clear, as is the willingness of the American people who have found themselves in the subprime market to pay a certain price for a company that is willing to give them that second chance. Bottom line, if an individual does not feel comfortable with what is being asked of them, the decision is theirs to not apply for credit.