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Subject: Reg Z -- Truth in Lending

Comments:

Date: Dec 23, 2010

Proposal: Regulation H and Y - Risk-Based Capital Guidelines: Market Risk
Document ID: R-1401
Document Version: 1
Release Date: 12/15/2010
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Comments:

The Federal Reserve ("Board") is proposing to change the CARD Act and their own rulemaking from 2009 to now require pre-account opening fees in the calculation of 25% limitation in the first year of account. The CARD Act that was passed into law by Congress. 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. The objective of the comment letter is to OPPOSE the Federal Reserve's proposal to further restrict limitations on fees that are allowed by card issuers. As written, the CARD Act allows FPB to charge an up-front fee prior to opening. That fee, per the Act, is not included in the fees that limited to the 25 percent. However, the Federal Reserve is attempting to change this by including ALL fees whether prior to opening or not. The Federal Reserve is exceeding their authority to change the CARD Act law. We need to tell the Federal Reserve that they cannot change the CARD Act without Congress passing a new law. Reference Docket No. R-1393 Section 226.52 Limitation on Fees. The Federal Reserve ("Board") is proposing to change the CARD Act and their own rulemaking from 2009 to now require pre-account opening fees in the calculation of 25% limitation in the first year of account. The CARD Act that was passed into law by Congress. 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. The authority given to the Federal Reserve Board to write implementing rules for the CARD Act does not extend to changing the law.

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.