

From: Darrell E Schmith
Subject: Reg Z -- Truth in Lending

Comments:

Date: Dec 28, 2010

Proposal: Regulation Z - Truth In Lending Act
Document ID: R-1393
Document Version: 1
Release Date: 10/19/2010
Name: Darrell E Schmith
Affiliation: First PREMIER Bank
Category of Affiliation: Commercial
Address:
City:
State:
Country: UNITED STATES
Zip:
PostalCode:

Comments:

Dear Board of Governor of the Federal Reserve System, I am writing you as an employee of First PREMIER Bank, an affiliate of PREMIER Bankcard LLC located in Sioux Falls, South Dakota urging you to support Congress in opposing the proposed rule that would change the CARD Act from the way it was intentionally written. I believe in the product provided by PREMIER Bankcard I know it meets a consumer need. The proposed rule is not what Congress intended, is not good for the consumer, is not good for business, and is not good for the State of South Dakota. The proposed rule would change the CARD Act passed by Congress by implementing regulations that include 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". It does go on to state that the current practice is consistent with the current language of section 226.52(a)(1). However, the Board for some reason believes 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 strongly 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 urge the Board to not adopt the proposed rule to restrict pre-account opening fees that are not charged to the account.