



Credit Union National Association

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cuna.org

VIA E-MAIL: regs.comments@federalreserve.gov

June 28, 2007

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. R-1281, Proposed Rule Regarding the Electronic
Delivery of the Disclosures Required Under Regulation B

Docket No. R-1282, Proposed Rule Regarding the Electronic
Delivery of the Disclosures Required Under Regulation E

Docket No. R-1283, Proposed Rule Regarding the Electronic
Delivery of the Disclosures Required Under Regulation M

Docket No. R-1284, Proposed Rule Regarding the Electronic
Delivery of the Disclosures Required Under Regulation Z

Docket No. R-1285, Proposed Rule Regarding the Electronic
Delivery of the Disclosures Required Under Regulation DD

Dear Ms. Johnson:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the proposed rules on how financial institutions and others can electronically provide the written disclosures required under Regulation B (the Equal Credit Opportunity Act), Regulation E (the Electronic Fund Transfer Act), Regulation M (the Consumer Leasing Act), Regulation Z (the Truth in Lending Act), and Regulation DD (the Truth in Savings Act). By way of background, CUNA represents approximately 90 percent of our nation's 8,600 state and federal credit unions, which serve over 87 million members.



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SUMMARY OF CUNA's COMMENTS

- We agree that for applications and solicitations that are accessed electronically, consumer consent should not be required before providing the disclosures that accompany these applications and solicitations.
- We also agree with the examples that are provided in the proposal as to how to provide these disclosures, while recognizing that other means are likely to develop as technology evolves.
- We support the requirement that the variable annual percentage rates (APRs) that are disclosed on electronic applications and solicitations will be considered accurate if they were in effect within thirty days before they were posted or sent electronically.
- We are pleased that the Federal Reserve Board (Board) has eliminated a number of the timing and delivery requirements that were included in the prior version of these rules, which were issued as interim final rules in 2001, but were never finalized. We are especially pleased with the elimination of the requirement to send disclosures to a consumer's e-mail address, as this will allow the information to be delivered through a financial institution's home banking system.

CUNA's Comments

In 2001, the Board issued interim final rules regarding electronic disclosures. These were intended to ensure consistency with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), which became effective on October 1, 2000. The E-Sign Act permits the use of electronic signatures and disclosures, as long as appropriate consent is received from the consumer. These 2001 rules were never finalized. Since then, creditors have been able to provide electronic disclosures, as long as they complied with the E-Sign Act. Earlier this year, the Board issued proposed rules to replace the 2001 interim final rules.

Under the proposed rules, the various applications, solicitations, and advertisements that are provided electronically under these consumer protection rules must also include the required disclosures, and consumer consent will not be required when providing these disclosures, notwithstanding the general requirement to obtain such consent, as outlined in the E-Sign Act. We agree with this approach and do not believe that separate consumer consent should be necessary in order to provide these required disclosures.

By taking the action to access these applications, solicitations and advertisements, we believe consumers have elected to receive this information electronically, and this includes receipt of the accompanying disclosure information. Electing to receive this information would seem to be the

equivalent of consent, and this should be sufficient for purposes of complying with the consumer consent provisions of the E-Sign Act.

For these disclosures that are provided electronically, the proposal provides examples of how to incorporate them into the other materials. These include having the disclosures appear on the same screen as the other materials, providing a reference to the location of these disclosures, or providing a link that the consumer may use to access these disclosures, as long as the link cannot be bypassed. The creditor would not need to confirm that the consumer has read the disclosures.

We agree that these examples are appropriate. However, the delivery of electronic disclosures promises to be a rapidly changing area as technology evolves. For this reason, we encourage the Board to clarify that other means may develop in the future, which may also be appropriate.

The proposed rules also provide that the variable APRs that are disclosed on electronic applications and solicitations will be considered accurate if they were in effect within thirty days before they were posted or sent electronically. This is in contrast with direct mail solicitations and applications, in which variable APRs will be considered accurate if they were in effect within sixty days before they were mailed. We have no problem with the shorter thirty-day time requirement, as we anticipate that these types of electronic disclosures will be updated constantly with current information.

We support the Board's decision to eliminate a number of the timing and delivery requirements that were included in the 2001 interim final rules. These requirements include:

- The requirement to send disclosures to a consumer's email address, or post the disclosures on a website, and then send a notice alerting the consumer that the disclosures have been posted
- The requirement that if a disclosure is returned undelivered, the creditor must then attempt redelivery, based on the address information that is on file.
- The requirement that the disclosures must be made available on the creditor's website, or other location, for at least 90 days.

We are especially pleased with the flexibility that will now be possible as a result of the elimination of the requirement to send disclosures to a consumer's e-mail address, as this will allow the information to be delivered through a financial institution's home banking system. This flexibility was emphasized in CUNA's comment letter in response to the 2001 interim final rules in which we stressed that providing information through home banking systems can be effective, and it is becoming the preferred approach among financial institutions.

Credit unions generally appreciate the guidance that the Board often provides with consumer protection rules. Although these timing and delivery requirements provide general guidance, we agree that more specific guidance is not advisable at this time. Again, the delivery of electronic disclosures, as with other aspects of the E-Sign Act, is an area that will change rapidly as technology evolves. We encourage an approach that will allow credit unions to adopt procedures for the delivery of electronic disclosures that will best address the needs of their members, which may very well change over time.

We also believe that the Board can and should examine these issues in the future and should take the opportunity at that time to provide guidance, if the need arises. We look forward to assisting the Board in these future efforts. Credit unions, as not-for-profit financial institutions, are in the unique position of being able to provide an industry perspective while emphasizing the consumer protection needs of its members. We believe this perspective will be invaluable to the Board on this and all other proposals and issues affecting the consumer protection rules that the Board administers.

Thank you for the opportunity to comment on these proposed electronic disclosure rules. If you or other Board staff have questions about our comments, please give Senior Vice President and Deputy General Counsel Mary Dunn or me a call at (202) 638-5777.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey Bloch', written in a cursive style.

Jeffrey Bloch
Senior Assistant General Counsel