



Neighborhood Economic Development Advocacy Project

FINANCIAL JUSTICE ALERT

For community groups and advocates
Alert # 1, July 2008

Regulators Propose Rules to Address Abusive Credit Card and Overdraft Practices

COMMENTS FROM NY GROUPS NEEDED

In May, the Federal Reserve Board, the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) issued for public comment proposed new rules to restrict unfair and deceptive practices concerning credit cards issuers and overdraft bounce protection. **Comments due: August 4th, 2008**

BACKGROUND: The groundbreaking proposal would protect consumers from unfair and deceptive practices by credit card companies and banks. Your comments on the proposed regulations are vital; please take this opportunity to weigh in on widespread abuses that disproportionately affect low and moderate income people in New York and across the country.

SUMMARY OF PROPOSED REGULATIONS: The proposed regulations would address the following deceptive or abusive practices, among others:

- Imposing late fees unfairly
- Applying payments only to the lowest interest rate balance when customers have balances with multiple interest rates (e.g. promotional rates, balance transfers, cash advances)
- Universal default: raising rates on an account in good standing based on late payment to another account
- Charging interest on a paid balance through double-cycle billing
- Charging and financing excessive fees on subprime, fee-harvesting credit cards
- Imposing unfair bounce protection fees and charges, including not providing customers the ability to opt out of bounce protection.

For a more detailed explanation of the proposal, by Consumers Union, [click here](#).

ACTION NEEDED: Groups are strongly encouraged to comment on the proposed regulation by the August 4th due date. **Please also sign onto the attached comment letter from groups in New York State to the Federal Reserve Board, OTS and NCUA.** To sign on, or for more information, contact Alexis Iwanisziw at alexis@nedap.org or 212-680-5100. Please be sure to indicate how you would like your organization's name to appear on the letter.

The deadline to sign on to the NYS letter is Friday, August 1, 2008.

August 1, 2008

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-1314

Dear Ms. Johnson:

The signatories below applaud the Federal Reserve Board's efforts to protect consumers from excessive fees and interest rates on credit card and overdraft loans. The proposed regulations would shield consumers from many unfair and deceptive practices.

We strongly support the following elements of the proposed regulations in their current form:

- Providing consumers reasonable time to make payments;
- Prohibiting universal default;
- Banning over-limit fees caused by a hold on the account;
- Prohibiting double-cycle billing; and
- Banning overdraft fees caused by debit holds.

However, the regulations should go further in protecting consumers' interests. Credit card holders should be able to choose how their payments are allocated between various balances with different interest rates. Financial institutions should honor a consumer's choice of the three proposed allocation options, which would protect consumers' interests while minimizing the administrative burden on the financial institutions. When consumers carry a balance with deferred interest, billing statements should prominently display the date by which that balance needs to be repaid to avoid the retroactive application of the deferred interest.

The proposal prohibiting universal default will benefit many consumers, but the exception allowing changes in APR on outstanding balances in the event that the minimum payment is 30 days late still leaves consumers vulnerable to the unfair application of penalty rates. The 30 day period should be extended to at least 60 days. The regulation should also provide clear guidance on how long institutions may charge the consumer a penalty rate after the consumer has resumed making on-time payments, and should limit the fees and rates associated with late payment.

We agree that firm offers of credit should include prominent disclosure of the factors that determine APR and other card terms. In addition, offers should display the terms for which the recipient is most likely to qualify.

We urge the Federal Reserve Board to prohibit fee-harvesting credit cards. While limiting the fees associated with these cards is an important first step, even with limited fees, fee-

harvesting credit cards do not benefit consumers. In July, 2006 an agreement between the New York State Attorney General's Office and Columbus Bank and Trust Company and CompuCredit Corporation led the Aspire card issuers to repay eleven million dollars in deceptive fees and charges for services the cardholders did not request. Another issuer, Cross Country Bank, was required to pay ten million dollars in penalties and restitution in early 2006 as well. Since the Board has decided that analogous mortgage products are deceptive, we urge that the regulations ban these cards as well.

The regulations should also flatly prohibit institutions from making unilateral changes to credit card terms. This is an issue of fundamental fairness: consumers cannot shop around for the best rates and terms, because almost all credit card contracts allow the institution to change the terms of a credit card for future purchases "at any time for any reason." Sudden changes in credit limits and fees can be costly to consumers, and will likely take the place of retroactive changes in interest rates in gouging consumers, after these regulations go into effect.

Rather than requiring the disclosure and opportunity to opt-out of overdraft protection before fees can be assessed, the regulations should require that consumers request overdraft protection before the service can be added to their account. The Center for Responsible Lending reports that consumers paid 17.5 billion dollars in overdraft fees but only borrowed 15.8 billion dollars in overdraft loans in 2006. Accounts closed because a customer cannot afford to pay these abusive overdraft fees can prevent consumers from opening a new bank account, relegating these consumers to costly fringe services. Since overdraft protection can have serious negative consequences for account-holders, overdraft protection should operate on an opt-in, rather than opt-out basis.

Sincerely,

Neighborhood Economic Development Advocacy Project

[ADDITIONAL GROUPS SIGN ON HERE]