

August 4, 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 APRs 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 \$11 million in deceptive fees and charges for services the cardholders did not request. Another issuer, Cross Country Bank, was required to pay \$10 million in penalties and restitution, also in 2006. 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: it is impossible for consumers to shop 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—or opt-in—before the service can be added to their account. The Center for Responsible Lending reports that consumers paid \$17.5 billion in overdraft fees but only borrowed \$15.8 billion 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
Long Island Housing Services, Inc.
Margert Community Corporation
Pratt Area Community Council
New York Public Interest Research Group
Neighbors Helping Neighbors
District Council 37, AFSCME, Municipal Employees Legal Services
Consumer Rights Project, MFY Legal Services
Empire Justice Center
Legal Services for the Elderly in Queens
Elder Law Clinic, St. John's University School of Law
Legal Aid Society, Queens Neighborhood Office
Common Cause/New York

South Brooklyn Legal Services, Inc.
Urban Justice Center