



February 6, 2006

Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Comments on Part 707 Truth in Savings

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am responding to the National Credit Union Administration's (NCUA) interim final rule and request for comment regarding amendments to 12 C.F.R. 707, Truth in Savings. In particular, NCUA has requested comment on how the burden of disclosures on credit unions can be minimized.

The interim final rule addresses the uniformity and adequacy of information provided to members in relation to courtesy overdraft protection services, and the marketing of such services. While NAFCU generally supports the interim final rule, NAFCU is concerned that the mandatory compliance deadline does not allow adequate time for credit unions to implement the necessary system changes to comply with the regulation. Additionally, NAFCU believes that the periodic statement disclosure requirements are unclear and could be interpreted to impose unnecessary burdens on some credit unions. Specifically, NAFCU offers the following comments below.

Mandatory Compliance Deadline

The Truth in Savings Act (TISA) requires NCUA to promulgate a "substantially similar" regulation within 90 days of the effective date of any Truth in Savings regulation prescribed by the Federal Reserve Board (Board). In compliance with this requirement, NCUA's interim final rule tracks closely the Board's amendments to Regulation DD issued in May 2005. The interim final rule was effective upon publication; however, compliance will not become mandatory until July 1, 2006.

NAFCU does not believe that the mandatory compliance deadline provides enough time for credit unions to implement the necessary system changes to comply with the new requirements. Credit unions must rely on their data processor to modify and test system enhancements. Third-party data processors are already overly taxed with a multitude of compliance challenges and may be slow to meet the heightened demand, leaving credit unions with little control over the timeliness of the required system changes. Nonetheless, credit unions will ultimately be held responsible for compliance with the new requirements. NAFCU believes that credit unions should be allocated more time to work with their software providers in adapting their systems to accommodate the new requirements.

Moreover, additional time should be allowed so that systems may be adequately tested before final implementation. Insufficient testing may lead to inaccurate information, which could cause undue consumer confusion.

NAFCU recommends that the compliance deadline be extended to December 31, 2006, to ensure full and proper implementation of all necessary operational changes.

Periodic Statement Disclosures

The interim final rule requires new periodic statement disclosures. Credit unions that provide courtesy overdraft protection must separately disclose on their periodic statements overdraft fees imposed on the share account during the statement period. Additionally, periodic statements must separately disclose aggregate totals of all fees charged on the account for paying overdrafts and returning items unpaid. The total dollar amount for the fees must be provided both for the statement period and for the calendar year-to-date.

Relative to this, NAFCU would like to draw attention to an inconsistency between the preamble to the interim final rule and the text of the regulation. Specifically, the preamble states:

Credit unions that *provide* courtesy overdraft protection must separately disclose on their periodic statements the total amount of fees or charges imposed on the share account for paying overdrafts and returning items unpaid. These disclosures must be provided for the statement period and for the *calendar year to date*. Credit unions that do not *provide* this service would not be required to provide the new disclosures. Truth in Savings, 70 Fed. Reg. 235, 72896 (December 8, 2005) (emphasis added).

The preamble also states that the cumulative disclosure requirements apply to “credit unions that provide *ad hoc* payments of overdrafts *or* promote the payment of overdrafts in an advertisement . . .” *Id.* at 72897 (some emphasis added). However, under section 707.11 of the interim final rule, these additional periodic statement disclosures are

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required only “if a credit union *promotes* the payment of overdrafts in an advertisement.” (emphasis added). This discrepancy makes it unclear whether credit unions that provide overdraft protection services but do not promote these services are subject to the cumulative disclosure requirements.

NAFCU suggests that the final rule clarify that only credit unions that **provide and promote** overdraft protection services are subject to the aggregate disclosure requirements. The preamble to Regulation DD expressly states that “institutions that do not promote the payment of overdrafts would not be required to provide the new periodic statement disclosures under the final rule.” Truth in Savings, 70 Fed. Reg. 99, 29584 (May 24, 2005). Similarly, credit unions that do not promote the payment of overdrafts in an advertisement should not be required to provide the cumulative disclosures. This should be stated clearly in the final rule.

Clarification of the periodic statement requirements is especially important in light of the significant regulatory and financial burdens involved. For credit unions that do not promote overdraft services in an advertisement and therefore are not required to provide the cumulative totals, the disclosure requirements under the interim final rule do not appear to be unduly burdensome. For those credit unions that do advertise, however, the compliance burden may be considerable. NAFCU believes that the burden of the new requirements may be minimized by giving credit unions the option of reducing their disclosure obligations in choosing not to promote the payment of overdrafts in advertisements.

NAFCU also would like to emphasize that we do not believe that the mere mention of overdraft services in an account agreement or similar materials constitutes a “promotion in an advertisement” that would trigger the cumulative disclosure requirements.

NAFCU would like to thank you for this opportunity to share its views on this interim final rule. Should you have any questions or require additional information please call me or Pamela Yu, NAFCU’s Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 218.

Sincerely,



Fred R. Becker, Jr.
President/CEO

FRB/pwy