CDIA
CONSUMER DATA INDUSTRY ASSOCIATION
Empowering Economic Opportunity

Comment

of the

Consumer Data Industry Association

Concerning the Notice of Proposed Rulemaking

on

Unfair or Deceptive Acts or Practices in Connection with

Consumer Credit Card Accounts and Overdraft Services for Deposit Accounts

73 Federal Register 28904 (May 19, 2008)

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Federal Reserve System

12 CFR Part 227

Regulation AA

Docket No. R-1314

Department of the Treasury, Office of Thrift Supervision

12 CFR Part 535

Docket ID: OTS-2008-0004

National Credit Union Administration

12 CFR Part 706

RIN 3133-AD47

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The Consumer Data Industry Association ("CDIA") is pleased to submit this comment on the above captioned matter. By way of background, CDIA was founded in 1906 and is the international trade association that represents more than 250 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, identity authentication and verification, risk management, employment reporting, tenant screening and collection services.

I. Proposed §___.24 could force lenders to make less safe and less sound credit decisions by restricting creditors from pricing according to risk in some circumstances. Additionally, the proposed section could raise the costs of credit to and reduce credit availability for consumers.

The proposal would prohibit a creditor from increasing the annual percentage rate on an outstanding balance as a result of changes in credit behavior unrelated to the consumer's credit card account with the institution. While intended to prohibit "universal default", proposed § ___.24, could force lenders to make less safe and sound credit decisions by restricting creditors from pricing according to risk in some circumstances. It is critical that creditors be able to set their current prices according to current risks. Taking away a key pricing tool could increase costs to and decrease availability of credit for consumers. The ability to continually reassess risk and re-price accordingly allows creditors to make more credit available at lower costs to more people. Under Proposed § ___.24, the cost of credit could go up and the availability of credit could go down.

Information is the "cornerstone of a democratic society and market economy"[1] and information exchanges serve a "useful and critical market function that benefits consumers and businesses alike."[2] Information from consumer reporting agencies "enable[s] one to construct diverse indicators of credit use and repayment performance, including measures of credit utilization, numbers of recently opened accounts, and timing and severity of payment problems."[3]

Many creditors have a need to monitor their customers' credit behavior with other creditors and from public record sources that may be found on credit reports. This information helps these creditors manage their portfolios and thus, better manage risk. Imposing regulations around monitoring extra-institutional consumer credit behavior could expose creditors to more risky and less sound decisions by restricting creditors from pricing according to risk in some circumstances.

II. Proposed §___.27 could reduce the ability of consumers to receive transitional credit and reduce the flow of transitional credit data to consumer reporting agencies.

In general, proposed §___.27 seeks to prohibit institutions from financing security deposits and fees ("annual rule") or charging to the account during the first billing cycle security deposits and fees ("monthly rule"). The services proposed to be banned are sometimes used by consumers as a lifeline to bring them back to a more mainstream credit marketplace, or these services can be used by consumers with historically thin files that may have been difficult to score.

Consumers who have been awash in debt with liens, judgments, or bankruptcies in their past may need assistance to get them to a more promising credit future. Consumers without a significant credit history

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[1] Board of Governors of the Federal Reserve System, Report to Congress Concerning the Availability of Consumer Identifying Information and Financial Fraud (1997), 2.
[2] Financial Privacy, Hearings before the Subcomm. on Financial Institutions and Consumer Credit of the Comm. on Banking and Financial Services, House of Representatives, 106th Cong., 1st Sess. (July 21, 1999) (statement of Comptroller of the Currency, John D. Hawke, Jr.).
[3] An Overview of Consumer Data and Consumer Reporting, Federal Reserve Bulletin (Feb. 2003), 70.

may see the services proposed to be banned as a way to chart a course to a positive credit history.[4] "Credit information has aspects of a classic public good"[5] and information reported to CRAs can help distressed consumers with a negative credit history or no credit history. Their rescue could come in the form of financed or charged security deposits or fees. Taking away these services might steer consumers away from their rescue. The rescue, of course, is consumer entrance or reentrance in to the mainstream financial system. Taking away these services might reduce the flow of data to consumer reporting agencies which could harm the very consumers the proposal is trying to protect.

We hope that this comment is helpful to you as you try to craft a rule that maintains safe and sound lending decisions and one that keeps consumers on a course towards positive credit histories.

Respectfully submitted,

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[4] See generally. "Getting credit where credit is due", a radio program aired on Friday, May 23, on Marketplace produced by American Public Media. <http://marketplace.publicradio.org/display/web/2008/05/23/fixing_zero_credit> (viewed June 12, 2008).

[5] Credit Reporting Accuracy and Access to Credit, Federal Reserve Bulletin, Summer 2004, 322.