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**AAA Federal Credit
Union**

Memo

To: Mary Rupp, Secretary of the Board NCUA
From: Paul R. Obermeyer
CC: File
Date: June 5, 2008
Re: Proposal for Deceptive Practices for Credit Cards and Overdraft Protection

See attached comments.

QUESTIONS REGARDING THE UNFAIR AND DECEPTIVE PRACTICES PROPOSAL (Credit Cards)

We understand some card issuers' practices have resulted in this proposal on unfair and deceptive card practices; however, we feel the majority of card issuer practices are fair. Many of the proposals would create increased costs to card programs resulting in higher interest rates or less available credit. We believe the current regulations are adequate.

1. NCUA requests comment on the following questions in connection with the proposal to provide consumers reasonable time to make payments, which should be at least 21 days:

What is the number of days after the closing date of the billing cycle that you typically mail or deliver periodic statements?

Time frame for the mailing of statements: FDR confirmed statements are mailed 80% by day 3 and 100% by day 5. Example: If a CU cycled (Tuesday), then 80% of the statements are mailed by Friday and 100% complete by Monday. Therefore, the cardholder would receive payment within the 21 day time frame.

What percentage of your members receive statements by mail and electronically, and what percentage make payments by mail, electronically, telephone, or through other means?

**Payments on accounts with balances estimated at: 60% Lockbox
40% online/phone/ACH and at the credit union**

Will the 21-day period give consumers sufficient time to review the statement and make payments?

Yes.

What will be the costs to alter your systems to comply with these provisions and to deliver the statements 21 days in advance of the due date?

In general statements are mailed at least 25 days prior to the payment due date. The unknown is the delivery time from the postal service; however, the cardholder should receive the statement at least 21 days prior to the statement due date.

Should NCUA and the other agencies adopt a rule to prohibit the treating of a payment as late if received within a certain number of days after the due date and, if so, how many days should that be?

No, it should not be prohibited since it would reduce the income to the credit union. Currently, the majority of programs are set at 15 days after the due date before a late fee would be assessed.

Should NCUA and the other agencies adopt a rule to require that, at the request of the consumer, the creditor must reverse a decision to treat a payment as late if it was mailed before the due date, regardless of when it was received?

No, it should not be required since it would severely impact operations due to the manual review of the envelopes, and most credit unions allow fee reversal upon request if not excessive. It would also add expense to payment processing which could result in a higher interest rate to the cardholder.

What evidence should the consumer be required to provide? Should there be a required time frame in which the consumer must mail the payment at least a certain number of days before the due date, as well as a requirement that the creditor receive the payment within a certain number of days after the due date? _If so, what should the time frame be?

There is no control over the mailing process from either party. Regular stamped mail is not tracked; only certified and overnights would provide documentation at an additional cost to the consumer. No time frame should be established.

What impact will these provisions have on the availability of credit?

We would not anticipate these provisions impacting the availability of credit; however, the additional cost of implementing a tracking system for payments could result in higher interest rates to the cardholder.

2. NCUA requests comment on the following questions in connection with the provisions as to how to allocate payments among balances with different interest rates:

1. Should other methods for allocating payments be listed in the rule?

Upon written request by the cardholder, payments can be allocated between purchase and cash advance balances manually. The majority of credit unions have the same rate for purchases and cash advances. To allow this would require programming which could result in higher interest rates for the cardholder.

b. Should creditors be permitted to first apply these payments to outstanding balances in which the rate cannot be increased as a result of provisions in this proposal that prohibit such increases?

Yes, since these balances would be the older balances made by the consumer.

c. Will the prohibition against applying these payments to the deferred interest balances prevent consumers from paying these balances in full before the date in which interest would be imposed?

Yes, with the payment being applied to the higher interest balance first and could result in the cardholder paying the deferred interest that they could have avoided resulting in a greater expense to the cardholder.

d. Do you agree with the exception that payments may be applied first to deferred interest balances in the last two billing cycles of the deferred period? Would a different period of time be more appropriate?

Currently, credit unions do not generally utilize deferred payment programs; however, waiting until two billing cycles of the deferred period would not be adequate.

Should consumers be permitted to instruct creditors on how to apply payments among the balances that are subject to different rates?

No, this would negatively impact the processing of payments and could result in higher costs resulting in higher interests rates to the cardholder.

e. What would be the costs of implementing these provisions and how would they affect the availability of credit?

There would be programming costs to implement these provisions, which the exact amount is unknown at this time. The impact on the availability of credit could be fewer promotional offerings to cardholders and higher overall interest rates.

3. NCUA requests comment on the following questions in connection with the provisions that prohibit increasing the interest rate on the outstanding balance:

a. Do you raise rates on outstanding balances?

Yes, with advance notification. Grandfathering balances is cost prohibitive and confusing to the cardholder. It may also result in higher interest rates to the cardholder due to the added expense of this method.

b. Do you allow members to opt-out of the higher rate for outstanding balances and do they take advantage of this option?

Cardholder would have to cease using the card.

c. What factors do you look at when deciding to increase rates, other than when members make late payments, bounce checks, or exceed the credit limit?

Other factors include the cost of funds and cost of the program.

d. Will these proposed restrictions limit your ability to manage risks?

No.

e. Do you agree with the 14-day period for determining the amount of the outstanding balance?

No, there would be the potential of cardholders running up the balance prior to the increase, then not being able to make payment. Currently, all transactions outstanding should settle within 5 business days.

f. Are the exceptions that allow the rate to be increased for outstanding balances appropriate? Should there be other exceptions? Is the exception when the payment is 30 days late an appropriate time period for considering a payment seriously delinquent?

Current regulations/rules are appropriate.

g. Are there other approaches that should be considered with regard to the payment of outstanding balances?

Current regulations/rules are appropriate.

4. NCUA requests comment on the following questions in connection with the provisions that prohibit over-the-limit fees caused by credit holds:

a. Do you charge more than one fee per billing cycle if the limit is exceeded and the member then makes other purchases?

No, one fee per billing cycle. Authorizations are not included in determining if an account is overlimit.

b. Do you vary the fee based on the number or dollar amount of transactions that are made when the credit limit is exceeded?

No, the fee is charged at the end of the billing cycle when the credit limit has been exceeded.

c. Do you continue to charge the fee when the transaction that exceeded the limit occurred in a prior billing cycle and the member did not make any purchases after that time?

For every cycle that the cardholder exceeds their limit, the fee would be assessed.

5. Do you charge fees and security deposits for credit cards issued to those with limited or damaged credit history?

No, credit unions do not charge fees for limited or damaged credit history cardholders.

Do you agree with the proposal that will limit the amounts that can be charged to the credit card? Are there other restrictions that can or should be imposed? Do you agree that these provisions should apply for the 12-month period after the account is opened? Does disclosure of these fees and deposits help consumers understand how they affect the availability of credit? Are there other alternatives that should be considered, instead of or in addition to these proposed provisions?

Overall the current regulations in this area are adequate.

6. For firm offers of credit with different rates and credit limits, the proposal will require a disclosure as to the criteria that will determine the rate or limit. Should there be a requirement that this be placed close to the first statement of the rate or limit or close to the most prominent statement of the rate or limit?

This is already a practice and the disclosure is placed near the most prominent rate or limit.

Do consumers currently understand they may have no possibility of qualifying for the lowest rate or the highest credit limit and will the proposed disclosure help consumers understand that they may not receive the best rate or credit limit?

This information is provided to the cardholder and the disclosure is placed near the most prominent rate or limit. Whether or not the cardholder understands the disclosure fully cannot be determined, but we do our best to help them understand.

QUESTIONS REGARDING THE UNFAIR AND DECEPTIVE PRACTICES PROPOSAL (Overdraft Protection)

7. For overdraft protection plans, should the rights for the consumer to opt-out only be required for overdrafts caused by ATM withdrawals and POS debit card transactions, while allowing creditors the option as to whether to provide this right for check and ACH transactions? What will be the cost and consumer benefits for providing partial opt-out?

It seems that a partial opt-out would increase the potential for confusion. Consumers would be required to segregate and track transactions by type- not very realistic for most that use overdraft services.

8. Certain creditors, including smaller financial institutions, may not be able to determine the consumer's account balance in "real time" and may not know if a certain transaction creates an overdraft. Are exceptions needed for the provisions in the proposal that will prohibit fees if the consumer has chosen to opt-out to address these or other circumstances? How can any such exception be narrowly tailored so as not to undermine the benefits of these provisions to the consumer?

If the consumer opts-out, they shouldn't be expected to pay fees. Even for on-line/real time FT's, there may be situations (i.e. ATM withdrawals network in "stand-in" mode) where real-time posting can't occur, and resulting overdraft/NSF fees should be the responsibility of the consumer- these situations should be addressed in disclosures.

9. For overdraft protection plans, creditors will not be able to impose fees in connection with debit transactions if the overdraft is caused by a hold placed by the financial institution, unless the purchase itself would have resulted in the overdraft. What will the cost of operational issues associated with implementing these provisions? NCUA and the other agencies are also considering a requirement that creditors pass a smaller dollar item before larger dollar items when received on the same day for the purposes of assessing overdraft fees. Under this approach, creditors could use an alternative clearing order, as long as this alternative is disclosed and the consumer agrees to this approach. How would such a requirement affect your ability to process transactions in "real time?"

We do not currently impose fees if the overdraft is the result of a hold placed. The order of processing should be left up to the institution. Consumers should be able to request information regarding the order of payment of items.

10. Should the effective date of the final rule be one year after the final rule is issued? If not, when should the rule be effective?

One year from when the final rule is issued seems reasonable.