
From: Beverley Rutherford [mailto:beverley.rutherford@vacu.org]
Sent: Monday, August 04, 2008 2:44 PM
To: _Regulatory Comments
Subject: VACU Comments on Proposed Rule Part 706

Thank you for the opportunity to comment on the proposed rules addressing unfair and deceptive practices on credit cards and overdraft protection plans. I am responding on behalf of a large state-chartered credit union located in Virginia. Although the FTC has authority in this area over state-chartered credit unions and will not be issuing a proposal at this time, we anticipate that state-chartered credit unions will be expected to comply with this rule.

We support many of the proposed credit card changes and currently have structured features and benefits of our card program to benefit our members. However, several of the proposed credit card changes may negatively impact consumers as additional costs to comply with the rules may be passed on to the consumer, and many programs that benefit consumers may be modified or eliminated entirely. Our comments are summarized below:

CREDIT CARDS

- Late payments – we support the proposal to prohibit payments being considered late if the billing is less than 21 days before the due date. In addition, allowing 5 days for payment to be received after the due date without treating it as late would be reasonable. We do not support a rule that would require, at the request of the consumer, a creditor to reverse a decision to treat a payment as late if it was mailed before the due date, regardless of when it was received. This would ultimately increase the cost of credit as additional research would need to be performed to validate these requests, when we as a credit union have waiver policies that adequately address this issue.
- Payment allocation – We do not support the requirement to allocate payments in excess of the required minimum payment via one of three suggested methods. This would require major re-programming by credit card system providers and would cause institutions to restrict consumer-friendly programs such as “balance transfer” promotions. The concept of payment application is complex and giving consumers the option to instruct how payment should be applied may be confusing and inconsistent, not to mention cumbersome for any system to handle.
- Rate increases on existing balances – We do not support the provision prohibiting raising rates on outstanding balances. For safety and soundness, financial institutions must manage credit risk and adjusting credit card interest rates up (or down) for cardholders with deteriorating (or improving) credit activity is an effective means of doing so. Also, changing the application of rate increases to another method of calculating payments would be systemically burdensome.

- Fees for exceeding credit limit – we support prohibiting fees being assessed if a credit card account is taken overlimit solely because a pending hold is placed on the account by a merchant.
- Double-cycle billing – we support the proposal to prohibit creditors from calculating interest on the prior billing cycle balances (with the noted exceptions).
- Credit offers with multiple rates/credit limits – we do not support the requirement to disclose the specific credit history factors needed for a credit card applicant to qualify for the lowest rate/highest credit limit. To effectively manage credit risk, institutions need to have the flexibility to adjust their underwriting standards without having to incur the expense of continually revising disclosures. However, a more generic reference to “credit history, income and debts” would be reasonable.

OVERDRAFT PROTECTION PLANS

We do not currently have a formal courtesy pay program in place; however, if at some point in the future we pursue this type of program, we have the following comments:

- Opt-out notice requirements - We do not support a requirement to provide an opt-out notice during each periodic statement cycle where a fee is charged. If the consumer has been provided an initial opt-out notice, repeated notices in each applicable periodic statement appears redundant and unnecessary.

We also do not support an option to allow for a partial opt-out for only ATM/POS transactions. This would require costly operational and system changes which would ultimately be passed on to consumers. Institutions with external processors may not know the consumer’s real-time balance to display the opt-out information when appropriate and foreign ATM’s don’t always display the true available balance.

- Overdrafts caused by debit card hold – we believe this requirement could be problematic as either automated or manual processes must be implemented to determine the ultimate nature of the overdraft; ultimately these monitoring costs would result in increasing the costs for consumers to participate in a debit card program.

Thank you for the opportunity to comment on the unfair and deceptive practices proposal. If you have any questions about our comments, please contact me.

Beverley F. Rutherford, CIA, CUCE
 Vice President/Compliance
 Virginia Credit Union, Inc.
 Richmond, VA
beverley.rutherford@vacu.org
 804-560-5665

This e-mail and any files transmitted with it may contain confidential and privileged information. It is intended solely for the recipient(s) indicated. Any review, use or distribution by anyone other than the intended recipient(s) is strictly prohibited. If you have received this e-mail in error or are not the intended recipient, please notify the sender and delete all copies immediately.

This message was secured by [ZixCorp](#)^(R).