

Illinois Credit Union League

P.O. Box 3107
Naperville, Illinois 60566-7107
630 983-3400

VIA E-MAIL TRANSMISSION
regcomments@ncua.gov

August 4, 2008

Ms. Mary Rupp,
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Comments on Proposed Rule Part 706
Unfair or Deceptive Acts or Practices

Dear Ms. Rupp:

The Illinois Credit Union League represents over 400 federal credit unions and federally insured state-chartered credit unions in Illinois. We are pleased to respond on behalf of our member credit unions to the NCUA's proposed amendments to its Unfair or Deceptive Acts or Practices rule regarding credit card account practices and overdraft services.

Credit Card Account Practices

Allocation of Payments

For credit card accounts that include balances subject to different interest rates, the proposed rule would require credit unions to allocate the amount in excess of the minimum payment under one of three methods or in another manner no less beneficial— (1) allocated first to the balance with the highest interest rate and then to other balances in descending order based on the interest rates; (2) equal portions of the amount allocated to each balance; or (3) allocated to each balance in proportion to the amount the balance bears to the total balance.

We believe credit unions should also be allowed to allocate payments in a “first in first out” method--first to the oldest balances and than to successive later balances. E.g., if the rate was 8% in 2005, 10% in 2006 and 7% in 2007, a credit union should be allowed to

first apply the payments to the 8% balance, then the 10% balance, followed by the 7% balance.

Consumers should not be given the option of determining how payments should be allocated. We believe such an option would result in processing and disclosure issues, and reduce the ability of the consumer (and a credit union's staff) to determine that the payments are properly allocated.

Prohibition on Increasing the Interest Rate on Outstanding Balances—Payment of Outstanding Balances

In addition to imposing a prohibition on increasing the interest on outstanding balances, the proposed rule would restrict payment of the outstanding balances subject to the lower rate to (1) an amortization period of no less than 5 years, or (2) a required minimum payment no more than twice the percentage that was in effect before the date of the increase in interest rate.

As we discussed in the previous section, we believe credit unions should be allowed utilize a first in first out allocation of payments. This method should also be allowed for payment of outstanding balances after an increase in rate.

Security Deposits and Fees for Issuing Credit

The proposal will prohibit creditors from charging fees or security deposits for the issuance of credit within the first year after the account is opened if these fees or security deposits are charged to the credit card account and exceed the majority of the available credit. Fees or deposits that are more than 25% but less than 50% of the available credit must be spread out over one year.

We strongly support the restriction of the proposed limits on security deposits and fees to security deposits and fees charged to the credit card account. I.e., that the rule will not apply to security deposits paid from separate funds.

Overdraft Services

Certain Overdraft Services Should Be Exempted from the Proposed Rule

We and our member credit unions believe that the historical overdraft accommodation programs offered by credit unions and opt-in programs should be excluded from the proposed opt-out requirements.

Overdraft Accommodation. Many credit unions have historically honored a member's overdraft on an infrequent, case-by-case basis for a reasonable fee. These programs are offered as an accommodation for the benefit of the members rather than an income

generator. Credit unions limiting their overdraft protection services to such overdraft accommodation programs may choose to discontinue the service if they are required to comply with the full notice and disclosure requirements. Credit unions offering only such overdraft accommodation programs should be exempt from the proposed rule. It would be appropriate, however, for the rule to require such credit unions to offer a mechanism to the members for informing the credit union that they do not want the overdraft accommodation.

Opt-In Plans. Under an opt-in plan offered by a number of credit unions, the member must contact the credit union to enroll in the overdraft protection plan and to be subject to the disclosed fees and condition of the plan. Credit unions should not be required to provide opt-out notices to members for a program they have chosen to participate in.

Opt-Out Disclosures

The proposed rule would require provision of the opt-out notice before a fee is charged for the first time and during each periodic statement cycle in which a fee is assessed, if the member has not chosen to opt-out.

We believe an annual notification of the ability to opt-out is preferable to disclosure on each statement. An annual disclosure will provide sufficient and appropriate notice to the member, and the credit union will forego costly programming changes to the periodic statement.

Many of our smaller credit unions are not able to determine the member's balance in "real-time" and may not know if a transaction will create an overdraft. Such credit unions are unable to block a transaction of an "opt-out member" that will cause an overdraft. The rule should allow credit unions to charge an overdraft fee to a member who has opted-out, if the member is provided with a disclosure notifying the member that his/her account balance may not be available at the time of the transaction and alert the consumer that a fee may be charged should an overdraft occur due to the insufficiency of funds in the account.

Effective Date of the Rule

Given the substantial changes in disclosures and programming that will be required to implement the proposed rule, we believe that the date for required compliance with the rule should be at least one year after the final rule is published.

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We appreciate the opportunity to respond to NCUA's proposed additions to Part 706.
We will be happy to respond to any questions regarding these comments.

Very truly yours,

ILLINOIS CREDIT UNION LEAGUE

By: Cornelius J. O'Mahoney
Senior Technical Specialist

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