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From: Raymond Stobie [mailto:drakeel@gmail.com]

Sent: Monday, August 04, 2008 12:37 PM

To: _Regulatory Comments

Subject: Unfair and Deceptive Practices for Credit Cards and Overdraft Protection Plans

Raymond Stobie

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August 4, 2008

NCUA National Credit Union Administration

Dear NCUA National Credit Union Administration:

Regarding allocation of credit card payments, we support prohibiting creditors from applying payments to balances with the lowest interest rate before applying it to those subject to higher rates, although we believe additional clarification of allocation methods that may be used is needed.

This may also present a processing issue, thus we suggest the extent of this potential burden be examined.

The proposal will limit the ability of creditors to increase the interest rate on an outstanding credit card balance. While this provision does not appear to be an issue, we are concerned that there may be significant processing and cost issues.

Also regarding the provision to limit a creditor's ability to increase the interest rate: (1) consumers can manipulate the process by guaranteeing lower rates by cancelling their cards and just opening them somewhere else to get a better or introductory rate; (2) this provision will encourage even more of a shift to variable rate cards; (3) this may affect initial pricing of credit, which may be higher to offset loss of revenue by not being able to raise rates on existing balances; and (4) we believe consumers should be able to elect to pay the higher rate if they want to continue accessing the credit card account, as opposed to being required to close the account and continue paying the balance at the lower rate.

The proposal will prohibit creditors from assessing a fee if the consumer exceeds the credit limit solely because a hold is placed on the available credit, such as when the hold placed by the merchant exceeds the amount the consumer is obligated to pay. The fee may be imposed if the actual amount of the transaction exceeded the credit limit. Creditors will also not be able to impose a fee when the hold on the transaction causes a subsequent transaction to exceed the credit limit. We agree with the concept that over-the-limit fees should not be imposed if it results from holds placed by merchants that exceed the amount of the transaction.

However, this may create processing issues, especially since creditors have little control over the holds that are placed by merchants. We believe merchants will need to work closely with creditors to better disclose hold amounts and the duration of these holds in order to ensure consistency and transparency.

Regarding overdraft protection plans, the proposal requires creditors to provide consumers with a notice and reasonable opportunity to opt-out of the overdraft plan before any fees are charged. We support providing customers the right to opt-out if they so choose. However, notice on periodic statements when overdraft is used is too onerous for credit unions and overwhelming for members who will at some point ignore this disclosure if they see it all the time, just like privacy notices. Credit unions may just put it on all periodic statements instead of just on those who use the service, which will be even less helpful for members and more costly for credit unions, such as higher mailing costs, and more of an operational burden. The best approach may be to only require on-going notice on an annual basis. We also believe these provisions should not apply to financial institutions that provide overdraft plans on an "opt-in" basis in which consumers affirmatively choose to enroll in the plan.

Lastly, for debit card transactions, the proposal prevents creditors from assessing a fee if the overdraft results solely by a hold placed on funds that exceeds the purchase amount of the transaction. We agree that overdraft fees should not be imposed if it results from holds placed by merchants that exceed the amount of the transaction. However, this proposal may create processing issues, especially since creditors have little control over the amount and timing of the holds that are placed by merchants.

We believe the NCUA Board should continue meeting with the financial services industry and their processors to discuss this issue further before finalizing these provisions.

Sincerely,

Raymond Stobie
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