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SchoolsFirst™

FEDERAL CREDIT UNION

August 4, 2008

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

Re: Unfair or Deceptive Practices; 12 CFR Part 706; RIN 3133-AD47

Dear Ms. Rupp,

AUG05'08 AM 9:21 BOARD

SchoolsFirst Federal Credit Union serves school employees in Southern California. We have more than 380,000 Members and \$7.7 billion in assets. SchoolsFirst FCU is pleased to have the opportunity to comment on the joint Agencies' proposed rules for unfair and deceptive practices involving credit cards and overdraft services.

Credit Cards

Time to Make Payment

Regulation Z requires creditors to mail or deliver the periodic statement at least 14 days prior to any date by which payment in full must be made to avoid finance charges. (226.5(b)(2)(ii)) The proposal, however, prescribes a 21-day time period for purposes of late fees. Further, the proposal provides a comment that to take advantage of the safe-harbor creditors with reasonable procedures to ensure statements are mailed with a certain number of days from the closing of the billing cycle would have to add that number to the 21-day period for purposes of determining the due date.

The proposed rule results in having differing due dates: one date to avoid finance charges and one date to avoid late fees. We believe this will result in Member confusion. In addition, we do not agree with the requirement of adding additional days to any "mail or deliver" timing requirement.

Furthermore, the proposed time period is based on the assumption that mail delivery takes seven days each way and leaves seven days for the consumer to review the statement. However, many Members take advantage of electronic bill-payment and can view their credit card statement electronically even if the paper statement has not arrived by mail. This proposal does not take into account electronic statements and electronic bill pay.

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Allocation of Payments

We agree with the general rule under .23(a) regarding payment allocation for accounts with no promotional rate balance or deferred interest. However, we find that the rule regarding grace periods under .23(b)(2) causes significant challenges. Grace periods traditionally require the Member's payment of the previous billing cycle's ending balance; however, the proposed rule prohibits requiring payment of promotional rate balances in order to have a grace period.

We believe this requirement will result in two separate minimum payment amounts: a required minimum payment and a different minimum payment to avoid finance charges on new purchases. Also, the proposal does not address how to calculate payments due when the promotion rate balances are comprised of purchases (for example: 2.9% on gas purchases).

In addition to being confusing to Members, this proposed rule will likely result in creditors no longer offering promotional rates due to the calculation and disclosure challenges. Members lose all around.

Increasing the Interest Rate on Outstanding Balances

We would like to express our concern regarding the proposed rules under section .24(a), prohibiting financial institutions from increasing the APR on outstanding credit card balances. The proposed rule limits the credit union's ability to manage its risks and operate safely and soundly. In changing interest rate markets, financial institutions must have the flexibility to earn a reasonable risk-based return. This proposal would result in increased expense burdens, the cost of which will ultimately be passed on to all Members.

In a rising interest rate environment, SchoolsFirst FCU provides Members with a change-in-terms notice that explains the increased interest rate and Members can choose to opt-out. If they opt-out, then their existing balance remains at the current rate, but no future advances are allowed. Their repayment of the existing balance is not accelerated, nor are any fees or other charges assessed as a substitute for an increase in the APR. We respectfully submit that this notice to Members and their right to opt-out and close their account is a fair and equitable approach

Overdraft Protection Plans

General

The proposed rule attempts to address overdraft transfers as being high-cost deceptive practices. However, many credit unions have structured overdraft plans that are conservative. Members use overdraft programs because of inadvertent errors or short-term cash flow needs, and they find this service beneficial.

NCUA Rule, Part 707.11 addresses disclosures to Members when they overdraw their share draft accounts pursuant to a courtesy overdraft protection program. These rules apply only if the credit union promotes its policy or practice of paying overdrafts. For those credit unions who (a) do not promote their overdraft program, (b) do not inform Members of an overdraft limit, and (c) do not include the dollar amount of an overdraft limit in the Member's balance, additional disclosures are not required. We do not believe this practice is unfair or deceptive in anyway and respectfully submit that this standard for additional disclosures or opt-out requirements remain.

Furthermore, SchoolsFirst FCU charges the same fee amount for an item returned unpaid as for an item that is paid and overdraws the Member's account. Therefore, our overdraft program has no additional costs to the Members.

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Opt-Out Right

The proposed rule requires that Members be provided with an opt-out notice both at account opening and at least once for each statement cycle in which any overdraft fee is assessed.

Firstly, we do not agree with the opt-out requirement for the payment of overdrafts if the fee for returning the item is equal to or greater than the fee for paying the item. With this fee structure, the Member is not harmed by the payment of the overdraft. In fact, returning the item would result in greater costs, inconvenience, and embarrassment to the Member.

Secondly, if an opt-out notice is required, the proposed rule prohibits charging an overdraft fee until the Member has a "reasonable time" to opt-out. A "reasonable time" is not defined in the proposed rule. We are concerned that an examiner's definition of "reasonableness" may differ from the credit union's definition. We suggest that an initial notice at account opening is sufficient notice and a waiting period is unnecessary.

Lastly, if an opt-out notice is required with each statement cycle in which an overdraft fee is assessed, we submit that the notice be a concise statement, small enough to be provided as a statement message rather than a separate mailing or statement insert. Such an approach would save excessive operational and mailing costs.

Partial Opt-Out

The proposed rule also permits Members to limit their opt-out to ATM and POS debit card transactions, but have ACH and share drafts pay by overdraft. We are concerned that the proposal does not explain which debit transactions it classifies as POS debit card transactions. Is this only for PIN-Based debit transactions, or any debit card transaction?

We believe this partial opt-out would be confusing to Members and expensive for credit unions to implement. It will be difficult to educate Members as to which transactions are subject to the opt-out and which transactions are subject to overdrawing the account. To implement a partial opt-out will require extensive programming costs, which ultimately will be passed on to the Membership.

The proposal includes two exceptions as to when the credit union can charge an overdraft fee for paying an overdraft created by a Member who has opted-out. While we agree with both of the exceptions provided, there are other times in which the credit union cannot decline to pay a transaction that overdraws an account, for instance: recurring debits, when ATM/POS terminals are in stand-in mode (not real time balance) and authorize withdrawals, etc. A fee should be permitted for instances where the credit union is unable to decline the transaction and must overdraw the Member's account.

Debit Holds

The proposed rule would prohibit credit unions from assessing an overdraft fee if (1) the overdraft is caused solely by a hold placed on funds as a result of a debit card transactions, (2) such hold exceeds the actual purchase amount of the transaction, and (3) the actual purchase amount would not have caused an overdraft. We find this debit hold proposal to be impractical, costly, and confusing to Members.

The proposal would have a crippling effect on the payment systems. Financial institutions will be reluctant to pay subsequent draws on a consumer's account if the payments would *possibly* cause the account to be overdrawn when the merchant presents the actual purchase amount for settlement.

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While the proposal is simple in theory, it would be near impossible to implement. If the credit union were able to create a "look back" process and analysis that would calculate whether overdrafts would have occurred if the actual purchase amount had paid on the date of authorization, it would require substantial programming costs to develop. Expenses and costs are ultimately passed on to the Membership.

From a Member service perspective, it would be extremely confusing to Members and difficult for them to understand when an overdraft is the result of a debit hold.

Transaction Clearing Practices

The proposal solicits comments on the impact of requiring financial institutions to pay smaller dollar items before larger dollar items when received on the same day for purposes of assessing overdraft fees. Institutions may use a different clearing order, if the consumer affirmatively opts-in. While we understand the Agencies objective is to prevent manipulating posting methods to increase fee income, we are concerned about requiring consumers to consent to a specific payment method, the effect on our payment systems, and the impact to our Members.

Financial institutions must have the flexibility to create processes that are cost effective, efficient, and meet the needs of the organization and the Members. These efficiencies help us to control expenses and allow us to provide our Members with the products and services they desire.

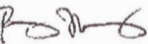
Since there is no uniform method of processing payments, providing consumers with a notice to which they need to consent does not mean that they would understand the advantages or disadvantages and be able to use such a notice to do comparison shopping between financial institutions.

With the modernization of payment methods, and the move to increased electronic payments, the credit union posts multiple batches of items per day (Check 21, ACH payments), in addition PIN-based POS and ATM transactions post in real-time throughout the day. The proposal would require that we hold and commingle all payment types and batches presented on the same day, sort the items from lowest to highest dollar amount, and post once a day. We believe this will adversely affect Members, in that they will be unable to monitor the changes to their account balance throughout the day, and this could potentially result in additional overdrafts. Further, the complexity of processing payments in such a matter would significantly alter and slow down the payment process. Such inefficiencies are costly to the credit union and additional costs and expenses are ultimately passed on to the Membership.

Most importantly, however, is the effect on our Members should we be required to pay smaller dollar items before larger dollar items. Some Members would want their higher dollar items paid first – their mortgage, rent, car payment, credit card payment, etc. Leaving these higher dollar items unpaid would also subject the Members to the payees' fees or penalties for returned payments, which generally exceed the overdraft fee.

Thank you again for the opportunity to express our views on these proposed rules for unfair and deceptive practices.

Sincerely,



Rudy Hanley
President/CEO

c: Credit Union National Association (CUNA)
California/Nevada Credit Union League (CCUL)