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From: Suzanne Yashewski [mailto:syashewski@tcul.coop]
Sent: Monday, August 04, 2008 7:22 PM
To: _Regulatory Comments
Cc: Dick Ensweiler; Buddy Gill; Mary Dunn
Subject: Texas Credit Union League Comments on Proposed Rule Part 706

August 4th, 1008

Mary Rupp

Secretary of the Board

National Credit Union Administration

1775 Duke Street

Alexandria, VA 22314-3428

VIA E-Mail to: regcomments@ncua.gov.

Re: RIN 3133-AD47 Texas Credit Union League Comments on Proposed Rule Part 706 The Texas Credit Union League (TCUL) appreciates the opportunity to comment on the proposed revisions to the National Credit Union Administration's Rules and Regulations Part 706 concerning proposals regarding unfair or deceptive acts or practices in the areas of credit card accounts and overdraft services. The Texas Credit Union League is the official trade association serving nearly 600 federal and state credit unions and more than 7 million credit union members in Texas.

This letter reflects the views of our member credit unions.

Credit Cards

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 will

create processing issues, especially since creditors have little control over the holds that are placed by merchants. At this point in time, there simply is no way for a financial institution to program the technology to do this. The real problem is between the merchant and its customer. 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 the proposal concerning security deposits and fees for issuance of availability of credit, we are concerned that the proposal may affect credit rebuilder loans, secured credit cards, or share

secured loans. These types of products are often the only option for consumers with poor credit histories to be able to rebuild a positive credit history.

Regarding the provision concerning late payments, we would like to see some discussion on how this will affect the timing of electronic statements. For example, would the time run from the date of posting of the electronic statement?

Overdraft Services

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 of the overdraft plan in its entirety if they so choose. However, a "partial opt-out" option is an overwhelming burden for financial institutions to manage. Therefore, we suggest the portion of the proposal providing for a partial opt-out be removed from the final rule.

Additionally, 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. 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 in 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, as stated above, this proposal will create processing issues, especially since creditors have little control over the amount and timing of the holds that are placed by merchants. The real problem is between the merchant and its customer. 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.

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.

Conclusion

Thank you for the opportunity to comment on the proposed revisions to Part 706 of NCUA's rules and regulations. If you have questions about our comments, please feel free to call me at (800) 442-5762 x 8516.

Sincerely,

Suzanne Yashewski

Vice President, Regulatory Compliance & Legal Affairs Texas Credit Union League

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