Sanford

1305 W 18TH ST
PO BOX 5039
SIOUX FALLS SD 57117-5039
Phone: (605) 333-1000
www.sanfordhealth.org

August 4, 2008

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Regulation Comments, Chief Counsel's Office
Office of Thrift Supervision
ATTN: OTS–2008–0004
1700 G Street, NW
Washington, DC 20552

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

Re: Docket No. R–1314
OTS–2008–0004
RIN 3133–AD47
Proposed changes to Regulation AA
Unfair or Deceptive Acts or Practices
73 *Federal Register* 28904, May 19, 2008

Dear Sir or Madam:

This letter provides comments of Sanford Health concerning the Unfair or Deceptive Acts or Practices Proposed Rule (the "Proposed Rule") described above which was published by the Board of Governors of the Federal Reserve System (the "Board"), the Office of Thrift Supervision (the "OTS"), and the National Credit Union Administration (the "NCUA") in the *Federal Register* on May 19, 2008. The Board, the OTS, and the NCUA (collectively, the "Agencies") have proposed several new provisions designed to protect consumers against unfair or deceptive acts or practices with respect to consumer credit card accounts and overdraft services for deposit accounts. While we applaud the Agencies' efforts to protect consumers against unfair or deceptive acts or practices, we believe adoption of the Proposed Rule in its present form would likely result in unintended consequences, including increased costs to consumers and decreased availability of credit. We further believe that the Agencies have failed to fully consider and adequately weigh the impact of these consequences.

Sanford Health is South Dakota's largest integrated health care system as well as South Dakota's largest non-government employer with more than 10,000 employees covering 150 hospital, nursing home and clinic locations in more than 65 communities. Sanford Health is headquartered in Sioux Falls, South Dakota, a community with approximately 8,000 jobs related to the credit card industry. Major credit card issuers, such as Citibank (South Dakota), HSBC, First Premier/Premier Bankcard, and Wells Fargo, have either headquarters or major facilities in Sioux Falls. Several smaller credit card companies also have significant facilities in Sioux Falls. Sanford Health has a concern about the subject matter of the Proposed Rule because of the impact of the proposed rule on our employees, our more than 1.7 million patient visits annually (many of whom use credit cards to make payments to Sanford Health), our community's heavy involvement in the credit card industry, and the overall effect of the proposed rule on the U.S. economy at a time in which our economy is very troubled and precariously perched on a potential recession. We are especially concerned that the Proposed Rule will have highly adverse consequences for those individuals who are otherwise underserved by our financial system.

Of particular concern to us are those portions of the Proposed Rule which relate to restrictions on the ability of financial institutions to engage in risk-based pricing. Examples of the Proposed Rule's restrictions on risk-based pricing include limitations on the amount of a security deposit or fees for issuance or availability of credit that can be charged onto a credit card at the time of its initial opening and limitations on imposing increased rates on existing balances. We believe that limiting such credit card pricing practices is likely to result in a more rigid pricing structure that will create an excessive burden for consumers at one end of the risk spectrum and curtail credit to customers at the other end. Moving away from risk-based pricing will unnecessarily prohibit reasonable practices of credit card issuers and restrict the availability of credit to those borrowers who are most underserved by the existing credit markets.

We believe it may be useful to analyze this situation using the analogy of health insurance. If health insurers were denied the ability to underwrite the applicants for health insurance and appropriately price their products, a health insurance plan would be destined for failure. We in the health field are well aware of the risks of adverse selection if a health insurance plan is not properly underwritten and priced for the risks posed by the population it serves. Similarly, credit card issuers need to have the ability to appropriately price their products for risk.

Although the Agencies have acknowledged that the Proposed Rule will reduce credit access, we do not believe they have fairly analyzed the results of this restriction. First and foremost, this reduced credit access will be felt by those consumers who already have very limited access to credit. The elimination of these consumers from the credit card markets will not eliminate their need for credit but will simply drive these consumers to the much more expensive payday and car title lenders or to pawn shops or to even less regulated providers of credit. It is possible that the proposed limitations will force some consumers, who can no longer access traditional credit courses, into bankruptcy.

Finally, we are concerned that the Proposed Rule will have a substantially adverse impact on the U.S. economy at a particularly dangerous time for our economy. The Supplementary Information accompanying the Proposed Rule stated that the limitation on account-opening fees would impact approximately 5% of credit card holders. It has been estimated that this 5% equates to approximately 13 million consumers. The Proposed Rule will have a direct impact on these consumers, as their access to credit may be severely limited by the restrictions contained in the Proposed Rule. Further, it is likely that other of the Proposed Rule's restrictions on risk-based pricing will force creditors to increase the cost of credit over the entire cardholder population in order to compensate for the fact that various risk-based pricing mechanisms have been prohibited. The consequences to the overall economy of the reduced access to credit and the increased cost of credit could be very high, as it will affect not only cardholders, but will also likely impact businesses and individuals that would have benefited from the cardholders'spending. If consumers have less credit, and if the cost of the credit consumers do obtain is higher, they are likely to spend less money. This decreased spending will trickle throughout the entire economy. We believe that the Agencies should conduct additional research on the true cost of the various pricing restrictions inherent in the Proposed Rule.

As we said at the outset, we understand the concerns of the Agencies to protect consumers against unfair and deceptive practices with regard to credit card accounts. We believe in many portions of the Proposed Rule the Agencies have properly identified those practices and take appropriate steps against them. However, we cannot agree that the restrictions related to risk-based pricing are appropriate or wise. We believe that consumers and the U.S. economy will be best served by not restricting risk-based pricing but rather focusing upon insuring that pricing terms are fully, clearly and properly disclosed to consumers.

We thank you for the opportunity to comment on the Proposed Rule and for your consideration of our comments.

Sincerely,

Kelby K. Krabbenhoft
President & CEO

David Link
Executive Vice President