



**RETAIL INDUSTRY LEADERS ASSOCIATION**

*Retail's Future... Educate, Innovate, Advocate*

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Via e-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

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

**Re: Docket No. R-1316**

Dear Ms. Johnson:

The Retail Industry Leaders Association (RILA) respectfully submits these comments to the Board of Governors of the Federal Reserve System (the Board) regarding proposed rules to implement the risk-based pricing provisions in section 311 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), which amends the Fair Credit Reporting Act (FCRA).

RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Its members include the largest and fastest growing companies in the retail industry—retailers, product manufacturers and service suppliers—which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Our member companies appreciate the Board's desire to help individuals better understand how their credit scores impact credit card interest rates. However, we have significant concerns with the unintended consequences of the timing requirements in the Board's proposed rule, including loss of personal financial privacy, increased customer frustration at the point-of-sale and decreased benefits to consumers with good credit.

Under the proposed rule, when a retail store customer applies for a credit account and is not approved for the lowest available annual percentage rate (APR) for purchases, the creditor is required to give a specific risk-based pricing notice to the customer after account approval but before the first transaction is made on the account. Because the time between credit approval and purchase is mere seconds in a retail setting and because most store-branded credit cards are backed by a financial institution not present at the time of account approval, the proposed rule saddles retailers with the difficult burden of customer notification on behalf of the financial institution. RILA understands that the proposed rule seeks to provide consumers with notice that they did not receive the most optimal APR, and to encourage them to examine their individual credit reports for inaccuracy. However, we believe that customers will be better served by

receiving such notice at home, directly from the financial institution. Therefore, in lieu of proposing that store clerks with little or no financial industry training to disseminate personal finance information, we suggest the Board instead consider adopting a final rule which provides risk-based pricing notices in the same packet customers receive in the mailer containing their store-branded credit card. This will not only eliminate confusion at the point-of-sale, but will also ensure consumers direct their credit rating concerns to the proper financial institution, not to retail stores.

Further, we note the Board has proposed model forms for customer notice which are to be issued on large, conspicuous pieces of paper. Many retail store credit applicants who does not qualify for the lowest purchase APR may be embarrassed when handed this piece of paper in front of other customers at the point-of-sale and view this act as a public declaration of financial inequity. Such embarrassment will be handled in different ways by different customers. Some may quietly accept their notices, some may angrily demand to see a manager and cause a scene in the store, some may ask a store clerk powerless to affect change for further explanation of the chart (meanwhile keeping other customers waiting in line) and some may refuse to patronize the retailer in the future. All will lay blame on the retailer.

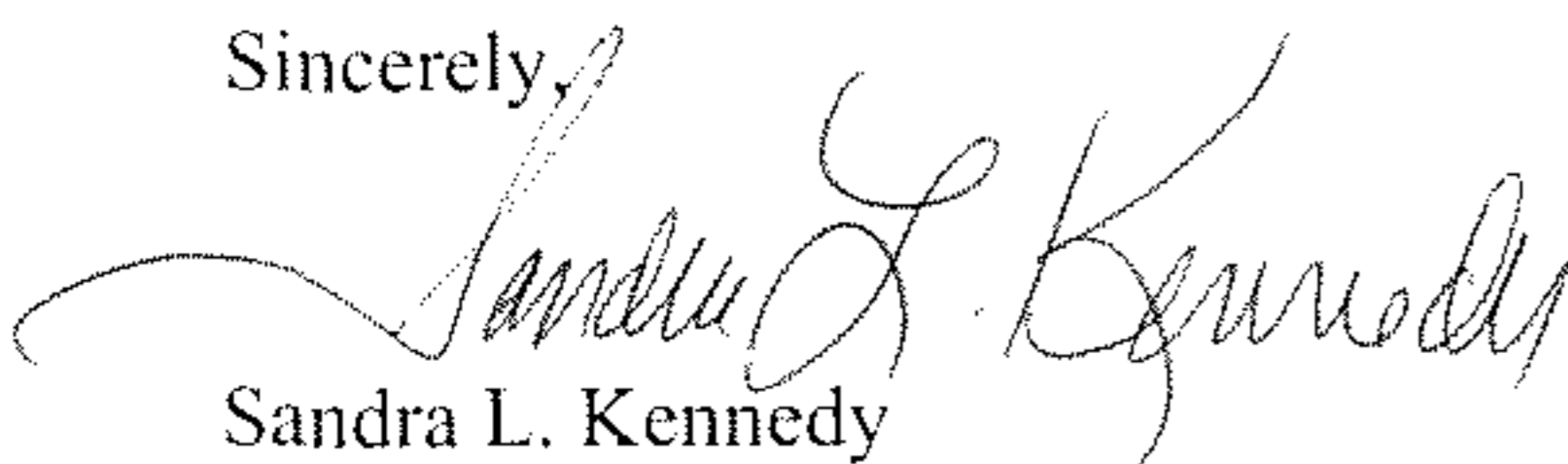
In addition, many of our member companies tell us that, in an effort to avoid the aforementioned scenarios, the creditor will simply offer one high purchase APR for all applicants to effectively manage risk. Therefore, consumers with excellent credit scores deserving of lower APRs will have to pay higher interest rates because they will be pooled with consumers who have lower scores. In turn, fewer well-qualified customers will apply for credit and store sales will suffer.

We also wish to point out for the Board the unintended consequence of the exception to the proposed rule for prescreened solicitations. While RILA fully supports this exception, the result would be inconsistent notice to consumers. In a retail setting, prescreened solicitations often arise through a process known as "preapproval of one" administered at the point-of-sale. If this exemption were to become final, two people who qualify for the same high APR may not both receive the proposed risk-based pricing notice.

In conclusion, RILA supports efforts by the Board to increase credit score awareness among the general public, but we oppose the aspects of this proposal which could negatively impact consumer privacy and customers with good credit. RILA urges the Board to instead consider a final rule which provides consumers approved for store-branded credit cards a risk-based pricing notice in the mail from the credit card's backing financial institution.

Thank you for the opportunity to share these comments. Should have any questions regarding this letter or the retail industry, please contact me at 703-841-2300 or [sandy.kennedy@rila.org](mailto:sandy.kennedy@rila.org).

Sincerely,



Sandra L. Kennedy  
President