

From: James Pannabecker

Subject: Truth in Lending

Comments:

Re: Regulation Z Proposal, Docket No. R-1340

I have only one comment, which regards the permissible collection of an early credit report fee. The Board should address the potential distinction between the language of the MDIA and the language of Section 226.19(a)(1)(iii).

The Board's proposal does not mention or explain a potentially significant difference between the MDIA provision and the Regulation Z provision. Instead, its preamble states: "This provision of the MDIA merely codifies § 226.19(a)(1)(ii) and (iii) of Regulation Z, as adopted in the Board's July 2008 final rule."

To the contrary, the MDIA does not merely codify Regulation Z. The MDIA permits a "fee for obtaining a consumer's credit report., provided the fee is bona fide and reasonable in amount." Regulation Z, on the other hand, permits "a fee for obtaining the consumer's credit history.." One might argue that the term "credit history" is substantially broader than the term "credit report." For example, a mortgage lender or broker might presume that the term "credit history" permits the addition to the actual cost of a credit report an additional amount for analyzing it or for paying someone else (such as an affiliate) for analyzing it.

Congress may have intended to limit the early fee to the fee actually paid to the consumer reporting agency that prepared the report. Regulation Z should either be amended to use the same terminology as the MDIA or the Board should explain its decision to use other terminology.

Thank you,
James Pannabecker