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United States Government Accountability Office  
Washington, DC 20548

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B-318497

August 11, 2009

The Honorable Christopher J. Dodd  
Chairman  
The Honorable Richard C. Shelby  
Ranking Minority Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Barney Frank  
Chairman  
The Honorable Spencer Bachus  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives

Subject: *Board of Governors of the Federal Reserve System: Truth in Lending*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Board of Governors of the Federal Reserve System (Board), entitled “Truth in Lending” (Docket No. R-1364). We received the rule on July 27, 2009. It was published in the *Federal Register* as an “interim final rule; request for public comment” on July 22, 2009. 74 Fed. Reg. 36,077. The interim final rule is effective on August 20, 2009, and comments must be received on or before September 21, 2009.

The interim final rule amends Regulation Z in order to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. No. 111-24, § 102, 123 Stat. 1734 (Credit Card Act) that are effective on August 20, 2009. The interim final rule pertains to advance notices of rate increases and changes in terms and the time consumers are given to make payments.

More specifically, the interim final rule generally requires that creditors provide consumers with 45 days advance notice of rate increases and other significant changes to the terms of their credit card account agreements. In addition, the interim final rule generally prohibits a creditor from treating a payment as late or imposing additional finance charges unless the creditor mailed or delivered the periodic statement at least 21 days before the payment due date and the expiration of any period within which any credit extended may be repaid without incurring a finance charge, *i.e.*, a grace period.

Enclosed is our assessment of the Board's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Board complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Laricke Blanchard  
Assistant to the Board of Governors  
of the Federal Reserve System

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM  
ENTITLED  
"TRUTH IN LENDING"  
(DOCKET NO. R-1364)

(i) Cost-benefit analysis

The Board did not prepare a cost-benefit analysis. However, the core provisions of this interim final rule implement the statutory requirements of section 102 of the Credit Card Act that are effective on August 20, 2009.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

As discussed further below, the Board found good cause under 5 U.S.C. § 553(b)(B) to conclude that, with respect to this interim final rule, publication of a notice of proposed rulemaking was impractical and unnecessary. Consequently, the Board was not required to perform an initial or final regulatory flexibility analysis as required under the Act. Nonetheless, in order to solicit additional information from small entities subject to the interim final rule, the Board published an initial regulatory flexibility analysis relying, in large part, on the regulatory flexibility analysis conducted for the Board's January 2009 Regulation Z Rule (74 Fed. Reg. 5244) and the January 2009 FTC Act Rule (74 Fed. Reg. 5498).

The Board notes that the precise costs to small entities to conform to the interim final rule are difficult to predict and will depend on a number of factors that are unknown to the Board. For this reason, the Board seeks comment on any costs, compliance requirements, or changes in operating procedures arising from the application of the interim final rule to small entities. Irrespective of these costs, however, the Board states that the core provisions of this interim final rule implement the statutory requirements of the Credit Card Act that are effective on August 20, 2009. The Board also states that it has implemented these requirements so as to minimize burden, while retaining benefits to consumers.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandate Reform Act does not apply to independent regulatory agencies, such as the Federal Reserve System.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act (APA), 5 U.S.C. §§ 551 et seq.

The Board issued this rule as an interim final rule, with an effective date of August 20, 2009. The APA generally requires that rules be published not less than 30 days before their effective date. 5 U.S.C. § 553(d). The Board concluded, however, that “good cause” exists to publish the interim final rule less than 30 days before the effective date. *Id.*

The Board similarly concluded that there was “good cause” to exempt this rule from the notice and comment requirements under the APA, 5 U.S.C. § 552(b)(B). The Board’s rationale for both these “good cause” findings was based on the requirement in the Credit Card Act for this rule to become effective on August 20, 2009. The Board states that this time period does not provide sufficient time for the Board to prepare a proposed rule and publish it in the *Federal Register*; provide a reasonable comment period, analyze the comments submitted, and prepare a final rule and publish it in the *Federal Register*. In addition, the Board asserted that the interim final rule is similar to rules recently adopted by the Board after notice and public comment. 74 Fed. Reg. 36,079.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The collection of information requirements in this interim final rule were approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 7100-0199.

Statutory authorization for the rule

The Board states that this interim final rule is promulgated pursuant to the authority in 12 U.S.C. § 3806, 15 U.S.C. §§ 1604, 1637(c)(5) and 1639(l), and Pub. L. No. 111-24, § 2, 123 Stat. 1734.

Executive Order No. 12,866 (Regulatory Planning and Review)

The Executive Order does not apply to independent regulatory agencies, such as the Federal Reserve System.

Executive Order No. 13,132 (Federalism)

The Executive Order does not apply to independent regulatory agencies, such as the Federal Reserve System.