



Office of Thrift Supervision

Department of the Treasury

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MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM:

Montrice Godard Yakimov, Managing Director
Compliance and Consumer Protection

SUBJECT:

Credit CARD Act: Interest Rate Increases and Rules on
Unfair Practices

On May 22, 2009, President Obama signed into law the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit CARD Act). In addition to providing a number of other important protections for consumers, the Credit CARD Act will address interest rate reductions on open end consumer credit plans. It will require institutions to:

- (1) Maintain reasonable methodologies for assessing the credit risk of the obligor, market conditions, or other factors upon which an annual percentage rate (APR) increase is based;
- (2) Not less frequently than once every six months, review accounts for which an APR has been increased since January 1, 2009 to assess whether such factors have changed, including whether any risk has declined (“Look Back” provision);
- (3) Reduce an APR previously increased when a reduction is indicated by the review; and
- (4) Provide written notice of the reasons when an increase is indicated by the review.

These provisions do not become effective until August 2010. However, OTS strongly encourages institutions under its supervision to consider them now as preparations are made to comply with the Credit CARD Act, particularly with respect to the requirements of the Look Back provision.

The Credit CARD Act also expands the prohibition against five practices that the OTS, the Federal Reserve Board (FRB), and the National Credit Union Administration recently found to be unfair under Section 5 of the Federal Trade Commission Act, which prohibits unfair or deceptive acts and practices. Through OTS CEO Letter 308 (“Credit CARD Act of 2009: Effective Dates”) issued on June 25, 2009, OTS notified institutions under its supervision of the dates on which provisions of the Credit CARD Act will become effective. In response to subsequent questions, we note that the Credit Card Act amends the Truth in Lending Act, for which the FRB has sole rulemaking authority. Because the OTS remains committed to protecting consumers from abusive practices, we will assess the FRB regulations implementing the Credit CARD Act before determining how to proceed with OTS rules prohibiting unfair practices. In the interim, institutions should prioritize compliance with the Credit CARD Act and implementing rules as they are issued.

Questions can be directed to April Breslaw, Director, Consumer Regulations, at (202) 906-6989.