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July 21, 2008

Ms. Jennifer J. Johnson

Secretary

Board of Governors of the Federal Reserve System

20th Street and Constitution Ave, NW

Washington DC 20551

Re: Document No. R-1314 [Regulation AA and Regulation Z]

Dear Ms. Johnson:

I am writing from Woodstock Institute, a Chicago-based research and policy development nonprofit organization, in support of the proposed changes to Regulation AA and Regulation Z, which curb many of the most unfair and deceptive credit card practices. Woodstock Institute supports the many aspects of the rule, but would like to take this opportunity to suggest additional protections needed to prevent unfair credit card practices that are not adequately addressed.

For 35 years, Woodstock Institute has documented the best and worst practices in the financial services industry with the purpose of developing meaningful reforms that bring fair and affordably priced financial products and services to lower-income and minority markets. In our discussions with community organizations and other reinvestment stakeholders, problems with credit cards, including price shrouding and contracts that severely restrict a borrower's ability to make informed credit choices, are pervasive.

Research conducted by Woodstock Institute and released in the 2005 report *Blindfolded Into Debt: A Comparison of Credit Card Costs and Conditions at Banks and Credit Unions* effectively demonstrates the complexity of credit card pricing and the need for rules to prevent unfair and deceptive practices in the credit card industry.¹ However, the report finds that many credit unions successfully offer credit cards without misleading and confusing costs, terms, and conditions. Based on these findings, Woodstock provided a series of recommendations to improve disclosure and protect borrowers, many of which are included in the proposed rule.

Woodstock Institute also submitted detailed comments on the Board's 2007 Notice of Proposed Rule, which included several recommendations that were incorporated into the Proposed Rule reiterating many of the recommendations contained in the 2005 report.²

¹Westrich, Tim, and Malcolm Bush. 2005. *Blindfolded Into Debt: A Comparison of Credit Card Costs and Conditions at Banks and Credit Unions*. Chicago, IL: Woodstock Institute, July 5.

²Feltner, Thomas. Letter. 2007. Comment letter to the Federal Reserve on a proposed revision to credit card and other open end credit disclosures. October 12.

Woodstock Institute is generally supportive of the Board's effort to eliminate many of the industry's worst practices. However, we have several additional recommendations for refined or expanded consumer protections which are not included in the Proposed Rule. These recommendations are listed below:

1. Restricting Increases in APR

Woodstock Institute supports the proposal to restrict credit card companies from increasing the interest rate on outstanding balances, particular in the case of "universal default." As credit card companies continue to offer tiered interest rates depending on the type of transaction conducted, a sudden change from a low interest rate to a considerably higher penalty or default rate can be detrimental to a consumer's ability to repay existing balances. Woodstock Institute is strongly supportive of the limits on APR increases listed in the proposed rule, allowing interest rate increases only in the case of cards with variable interest rates benchmarked to public indices, the expiration of a promotional rate, or in the case of a payment that is more than 30 days past due. However, in light of several industry practices which are not addressed in the Proposed Rule, it should be amended to include the following prohibitions:

- **Future modifications to the proposed rule must not permit "universal default."** It is critical that any modifications to the three exceptions described in §535.24 expressly exclude the default on any other debt obligation or a change in credit score.
- **Provide consumers with a disclosure 45 days in advance for a rate change, but require that credit card issuers offer consumers the option of borrowing under the non-rate change terms and conditions of the contract for the duration of the contract.** Currently, Regulation Z requires creditors to provide a change in terms notice 15 days before the change takes effect with current Proposed Rule extending this notification period to 45 days. While this is an improvement, reserving the right to make unilateral changes to credit card contracts is still an unacceptable industry practice. Rather than extending the terms notice period, the Board should ensure that consumers have the option to continue under the existing terms of the original contract with only a limited and well defined number of reasons for raising interest rates or charging additional fees.
- **Set a national maximum penalty and default rate.** A number of states have recently re-imposed maximum permissible interest rates for consumer installment loans. At the national level, the only agency to limit the maximum permissible interest rate for consumer credit is the Department of Defense and this limitation applies only to active-duty military personnel and their families. We believe that proscribing the circumstances under which a consumer is considered subject to default or penalty rates is important, but ultimately insufficient. Rather, the board should set a maximum permissible credit card interest rate.

2. Time to Make a Payment

Woodstock Institute supports the proposed rule requiring credit card companies to provide 21 days between the mailing of a statement and the payment due date but requests several changes to better clarify when and how a payment is determined to be late. There are a number of factors which contribute to complexity and confusion surrounding when a payment is late, and not all of these factors relate directly to a consumer's mailed payment. The proposed rule should include the following additional provisions:

- **Rather than provide additional disclosure for the cut-off time after which a payment is marked, the proposed rule should be amended to set a uniform cut-off time of 5:00 p.m. local time or the close of business, whichever is later.** The Board's consumer testing conducted as part of the rulemaking process has indicated that many consumers believe cut-off times are the close of the business day. Additional disclosures are unlikely to change this attitude, regardless of the new disclosures' proximity to the due date disclosure.
- **The proposed rule should define payments posted online as on-time if they are submitted through a credit card company's online bill payment mechanism before the due date and cut-off time.** This would allow consumers to submit on-time payments, before the due date, regardless of the time funds are actually transferred to the account. This change to the proposed rule would provide similar protections to those consumers submitting online payments as currently proposed for those consumers sending payments by mail.

3. Payment Allocation

Woodstock Institute supports the proposed rule that would require credit card companies to more fairly apply the payments that cardholders make to balances with different interest rates. We also support the proposal to prohibit credit card companies from denying consumers a grace period on purchases solely because they have not paid off a balance at a promotional rate.

4. Overlimit Fees

Woodstock Institute supports the provision in the proposed rule prohibiting the assessment of a fee if a consumer exceeds the credit limit on an account solely due to a hold placed on the available credit. Hold practices vary widely by credit card issuers, as well as by checking account providers, and an outright prohibition on the assessment of overlimit fees as a result of a hold represents the codification of industry best practices.

5. Two-Cycle Billing

Woodstock Institute supports the prohibition against two-cycle billing but requests that the proposal be clarified to provide information on total payoff amount. Unlike installment loans which include a monthly calculated pay-off amount, it is difficult to determine the necessary credit card account payment to satisfy a borrower's current obligations. Two-cycle billing makes this process even more difficult by calculating

interest based on previous balances that may have already been paid down when the interest was calculated. To provide a clearer understanding of the total cost of borrowing and the total pay-off amount and the effective APR, the Proposed Rule should be amended to include the following:

- **A figure representing the total payoff amount valid until the payment due date should be provided.** Both the two-cycle billing and average daily balance methods for computing interest result in residual interest payments due after a balance has been paid in full. To prevent late payments resulting from this residual interest going unpaid, consumers should be provided with a total payoff amount that would satisfy their existing obligations.
- **Eliminating two-cycle billing does not justify the elimination of the effective APR disclosure mandated by Regulation Z implementing the Truth in Lending Act.** The elimination of two-cycle billing will reduce much of the confusion surrounding whether the effective APR disclosure accurately portrays the total cost of borrowing. Woodstock Institute strongly encourages the Board to preserve this disclosure after it conducts additional consumer testing and analyzes the comments submitted in response to this Proposed Rule.

6. *Security Deposits and Issuance Fees*

Woodstock Institute supports the proposal to restrict credit card companies from financing fees and charges for opening a credit card where the fees and charges total more than half the credit limit. However, security deposits, issuance fees, monthly and annual fees, as well as other maintenance fees are a common practice among secured credit cards and require additional protections that should be incorporated into this proposed rule. In addition to the existing prohibitions:

- **The proposed rule should define as unfair and deceptive the issuance of any credit card where the fees to open the account are more than 25 percent of the credit limit, whether or not those fees are financed.**
- **The proposed rule should define as unfair and deceptive the issuance of any credit card which requires an application fee that precedes and is not conditional upon an offer of credit, including fees associated with a number subject to the Federal Trade Commission's (FTC) 900 Number Rule.** The FTC regularly warns consumers of offers of credit associated with "900" number calls, which include charges ranging from \$2 to \$50.³ Despite the disclosures required under the 900 Number Rule, these charges should be considered an application fee preceding and not conditional upon an offer of credit, and should be prohibited.

³Anon. 900 Numbers: FTC Rule Helps Consumers. <http://www.ftc.gov/bcp/online/pubs/tmarkg/nine.shtm>.

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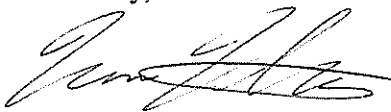
7. Advertising Disclosure for Firm Offers of Credit

Woodstock strongly supports the disclosure of a “typical” APR in credit card solicitations, applications, and at point of account opening to give consumers information that is more meaningful than just a generic periodic rate. Advertising an interest rate for which very few customers are likely to qualify constitutes price shrouding and makes it nearly impossible for all but the most careful consumer to determine the total cost of borrowing using the advertised credit offer.

- **Another standard form disclosure is not enough to address this widespread problem.** In cases where a range is offered, it is not uncommon for the range to be so large, often in excess of 7 percentage points, as to render the disclosure useless as a means of comparing credit offers. If a creditor uses the consumer's credit score or record to screen for an offer of a credit card, then that offer should describe only interest rates and credit limits that a consumer is in fact likely to qualify for.

While in many cases we request that Board expand or refine the Proposed Rule, we commend the Board for its efforts to address many of the industry's unfair and deceptive practices. For those practices that may require Congressional action, we urge the Board to use its substantial influence to recommend such legislation to Congress.

Sincerely,



Tom Feltner
Policy and Communications Director

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