

July 17th, 2008

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

Re: Docket No. R-1286

Dear Ms. Johnson:

On behalf of Fidelity National Information Services (“FIS”), I appreciate the opportunity to provide comments to the Board of Governors of the Federal Reserve System (“Board”) on the proposed amendments to Regulation Z, implementing the Truth in Lending Act (“TILA”), Docket No. R-1286.

FIS is a leading provider of core financial institution processing, card issuer and transaction processing services, mortgage loan processing and related information products and outsourcing services to financial institutions, retailers, mortgage lenders and real estate professionals. FIS has processing and technology relationships with 31 of the top 50 global banks, including nine of the top 10. FIS also provides processing and card issuer services to thousands of community banks and credit unions across the country. More than 50 percent of all U.S. residential mortgages are processed using FIS software. Headquartered in Jacksonville, Fla., FIS maintains a strong global presence, serving more than 7,800 financial institutions.

I. Summary

The proposed amendments to Regulation Z would apply to financial institutions offering open-end (non-home secured) credit products. In general, the Board proposes changes to the format, timing, and content requirements associated with the five types of disclosures required under Regulation Z for open-end credit, namely, disclosures made (1) with credit and charge card applications and solicitations; (2) at account-opening; (3) on periodic statements; (4) when terms are changed in an account; and (5) in advertisements. The Board has also proposed, in a separate notice, requirements under Regulation AA, Unfair or Deceptive Acts or Practices, that would regulate the activities that are the substance of the Regulation Z disclosure requirements (e.g., establishing rules governing the allocation of payments to outstanding balances).

The Board’s proposal would change the format and content of required disclosures in an effort to make them more understandable and useful to consumers. Specifically, disclosures would be required to include information regarding, among other things, minimum interest or finance charges, foreign transaction fees, penalty rates

when credit privileges are terminated, the right to reject the terms at account opening, changes in a consumer's interest rate and restrictions on setting a cut-off hour for payments.

The Board's stated goal with regard to these requirements is to improve the effectiveness of the disclosures that creditors provide to consumers at application and throughout the life of an open-end account. We support this goal, as we believe that consumers should have all necessary information about terms, fees and conditions applicable to an open-end account in order to make informed decisions about which account is best for them. Further, we find that many of the Board's proposals will likely meet that goal with minimal regulatory burden and cost impact to financial institutions. However, we do have concerns about the potential for customer confusion, and the regulatory burden and increased costs to financial institutions that some of the proposals would cause, as further detailed below.

II. Applications and Solicitations

The Board's proposal would require changes to the format, timing, and content of the credit and charge card application and solicitation disclosures required under Regulation Z. More specifically, the proposal would address the term "grace period," the minimum interest charge if one exists, foreign transaction fees, penalty rates when credit is terminated, and oral disclosures.

A. Grace Period

Currently, financial institutions are required to provide certain disclosures relating to the grace period during which interest will not be charged if the balance is paid in full by a certain date. The Board proposes eliminating the term "grace period" and instead replacing it with either the phrase "how to avoid paying interest" or "paying interest" (if there is no period during which interest is not charged). The stated purpose of this change is to provide more easily understandable terminology for consumers. The Board indicated that many consumers do not understand the term "grace period" and may confuse it with the billing period, which may be a different timeframe.

We agree with the Board's proposal and believe that the phrase "how to avoid paying interest" is preferable to the term "grace period." We respectfully suggest, however, that the Board provide sufficient implementation time to ensure that financial institutions can make the necessary changes in the applications and solicitations, including the paper version and any online or electronic versions, which may take additional lead time to properly format.

B. Minimum Interest Charge

Currently, financial institutions must disclose in credit card applications and at account opening any minimum interest or finance charge that the institution may impose. Recognizing that most financial institutions charge \$1 or less as a minimum interest or finance charge, the Board's proposal sets the limit at the \$1 mark. Thus, any financial institution charging in excess of \$1 as a minimum charge must disclose the amount on applications and at account opening. The Board also proposes that the threshold be adjusted in increments of \$1, when the sum of the annual percentage changes in the Consumer Price Index in effect on June 1 of the previous years equals or exceeds the next whole dollar amount. Thus, when the threshold adjusts to \$2, any institution currently charging between \$1 and \$2 would be able to continue using the application and other forms, even if the disclosure itself was not required. This will be a cost savings for financial institutions as they will not have to reformat immediately upon the change in the threshold.

We support the flexibility that the Board has provided in this disclosure, and note that the Board is correct that most institutions do not charge in excess of \$1 for a minimum charge.

C. Foreign Transaction Fees

The Board has proposed a new requirement that foreign transaction fees (fees for purchase transactions in a foreign currency or occurring outside the U.S.) be disclosed in the summary table provided at the time of application or solicitation. We believe, however, that the Board's proposal would require disclosures that are unnecessary for the vast majority of our customers, leading to potential confusion. For example, many smaller financial institutions do not have a significant proportion of the customer base to which foreign transaction fees are relevant. We suggest that the Board provide some flexibility to financial institutions with regard to the disclosure of foreign transactions fees, such that the disclosure is not required to be made to the majority of consumers for whom such disclosures are irrelevant.

D. Penalty Rate When Credit Privileges are Terminated

Under current law, financial institutions are not required to disclosure at the time of application for credit any increased fees that apply when a consumer's credit privileges are terminated. The Board specifically noted that the disclosure of an increased penalty rate may be unnecessary, as the Board is not aware of any institution that charges an increased rate when credit privilege s are terminated that is any different from the institution's penalty rate.

We agree with the Board that a financial institution should disclose such increased fees if different from the penalty rate when credit privileges are terminated, although we note that the practice of charging a different rate than the default rate is not a common practice.

E. Oral Disclosures

Card issuers are required under current law to provide costs disclosures in oral applications or solicitations for credit. However, issuers are not required to provide the oral disclosures if the issuer does not charge a fee for the card or does not charge a fee unless the consumer uses the card (although disclosures must be provided later in written form). If oral disclosures are required, they must include information about the Annual Percentage Rate (“APR”); the fees for issuing the credit; the minimum interest charge(s); transaction charges for purchases; grace period on purchases; balance computation method; and any statement, if applicable, that charges incurred by the card are due upon receipt of the periodic statement.

The Board proposes additional disclosures regarding certain types of accounts, such that where an issuer requires fees or a security deposit amounting to 25% or more of the credit limit on an account, the issuer must disclose orally the amount of available credit that the consumer would actually have after all fees and other costs are charged. Thus, if a credit card of \$500 required up-front fees or a security deposit of \$125, the financial institution would be required to disclose to the consumer that only \$375 in credit would be available.

We agree with the Board’s proposal that such disclosures are helpful to consumers, although we believe that the process of offering such cards with higher up-front fees is not particularly widespread.

We also strongly agree with the Board that requiring other oral disclosures, such as fees charged for cash advances, late payments, over-limit charges, and balance transfers would be overwhelming for consumers in a conversation and should therefore not be required. Additionally, we note that very few consumers believe, at the time of the application, that they will incur such fees.

III. Account-Opening Disclosures

The Board’s proposal includes new disclosures at account-opening, including changes to the “grace period” terminology similar to that discussed above with regard to applications and solicitations, and additional disclosures applicable to lines of credit and overdraft plans, and accounts with up-front fees that are financed on the account.

A. Lines of Credit Without Credit Cards

The Board’s proposal includes a model form¹ for use by financial institutions that offer open-end plans such as lines of credit or overdraft plans. The model form would present the disclosures the Board would require regarding key terms and disclosures, in a tabular format similar to the current disclosure of credit card account terms.

¹ Sample G-17(D)

The Board's stated position is that even though terms and rates for such products are not nearly as complex as those for credit card accounts, disclosures should be required to give consumers additional information about non-credit card lines of credit. While we do not disagree with the Board's general premise, we do have concerns about the sample form provided by the Board. The sample form, while clear and in similar format to the credit card account disclosures, would cause financial institutions to increase the size and amount of account-opening documents. We therefore believe the Board's position that the benefits of providing the information outweigh the costs may be overstated; the terms are generally very straightforward and uncomplicated, unlike many credit card account terms, and we believe that requiring these additional disclosures may create information overload for the consumer, similar to the concern that the Board expressed about oral disclosures of certain rates.

Nevertheless, if the Board includes this new requirement in its final rule, we urge the Board to provide sufficient flexibility and an extended implementation period to facilitate the reformatting of the disclosures. Specifically, we respectfully suggest that an implementation period be at least 24 months to ensure that the costs of reformatting paper documents and revamping online documents can occur with appropriate planning for the costs associated.

B. Accounts with Up-Front Fees

The Board requests comment on the scope of its proposal to require credit issuers to notify consumers of their right to reject an open-end plan. Specifically, the Board seeks comment regarding the appropriate scope of the proposed disclosure, and the appropriate threshold at which a creditor may deem an open-end plan rejected.

Under the Board's proposal, credit issuers that assess fees at account opening of 25% or more of the account's minimum credit limit must notify consumers of their right to reject the open-end plan. An open-end credit account would be considered rejected by a consumer if the consumer does not use the account within 60 days. If rejected, the consumer would not be obligated to pay any fees or charges that were financed on the credit account. However, if the consumer receives a bill and makes a payment toward the financed fees (if no other charges occurred) the account would be considered accepted by the consumer and the consumer would be liable for the fees.

IV. Checks that Access Credit Card Accounts

Previously, the Board proposed requiring financial institutions that offer checks that access credit card accounts to disclose with the issuance of the checks certain information about terms, fees and conditions. Specifically, the Board proposed requiring disclosures regarding the rates that apply to the checks, any fees charged, and whether there is a grace period. In its current proposal, the Board also would require disclosure of any time period during which the checks must be used for the consumer to receive the

disclosed rates. Additionally, if the checks can be used after the expiration of the initial rate (without the benefit of the reduced or discounted rate), then the period of eligibility for the reduced or discounted rate would have to be disclosed in any statements during the period.

We agree with the Board that this requirement will assist consumers in using these checks in an informed manner.

V. Changes in Interest Rate and Other Account Terms

The Board's proposal would require certain new disclosures to be made regarding changes to terms and conditions described in the account-opening table. Specifically, if the creditor changes the terms from account opening, the creditor must provide:

- A summary of the changes made to the terms;
- A statement that changes are being made to the account;
- A statement informing the consumer of the consumer's right to opt-out of the changes (if applicable) and additional information regarding the opt-out;
- The date the changes will become effective;
- If applicable, a statement that the consumer may find additional information and where the information is located;
- If the credit is charging a new rate other than a penalty rate, a statement that if a penalty rate currently applies to the account, the new rate will not apply to the account until the account balances are no longer subject to the penalty rate; and
- If the change is an increase in APR, the balances to which the increased APR will apply and, if applicable, a statement indicating which balances to which the current rate will continue to apply.

The Board's proposal would also require certain new disclosures on notices received by a consumer due to the consumer's default or delinquency. If a creditor increases a consumer's rate due to such a default or delinquency, the creditor must inform the consumer of the following:

- A statement that the consumer's actions have triggered a default or penalty rate;
- The date on which the rate will apply;
- The circumstances under which the rate will cease to apply, or that the rate will remain for a potentially indefinite time;
- A statement indicating to which balances the rate will apply; and
- If applicable, a description of any balances to which the current rate will continue to apply after the rate increase, unless a consumer fails to make a required minimum payment within 30 days from the due date for that payment.

As with many of the Board's other disclosures, we agree that the above information will be beneficial to consumers and is worthwhile. We do, however, respectfully urge the Board to provide a sufficient implementation time, of a minimum of 24 months, to ensure that smaller financial institutions are able to upgrade or rework their systems to ensure compliance with this requirement including the ability to reformat and redesign disclosure documents and electronic disclosures.

VI. Crediting Payments

Currently financial institutions may require consumers to comply with payment instructions that are reasonable, including a cut-off hour by which payments must be received on the due date to be considered timely. The Board expressed concern regarding cut-off times during the day, such that a payment received on the due date but after the cut-off time would be considered late. Additionally, the Board expressed concern regarding payment due dates that fall on a holiday or a day when mail is not delivered, thus effectively making the due date one day earlier than indicated.

The proposal would require consumers' mailed payments arriving by 5 p.m. on the due date to be considered timely. Further, if the due date were to fall on any day when mail is not delivered, then the proposal would require payments received the following business day to be considered timely.

We agree with the Board that mailed payments received by 5 p.m. on the due date should be considered timely, and we agree that payments received the day after the due date, if the due date falls on a day when mail is not delivered, should also be considered timely. We note, however, that implementing such a change will require reconfiguration of existing billing cycles, software upgrades, and retraining of staff. We therefore strongly urge the Board to provide for a reasonable implementation period of at least 24 months to allow financial institutions, particularly smaller institutions that may have fewer resources to devote to the required system changes, to comply. We also suggest that the Board permit, on an interim basis, that a financial institution be able to charge the late fee but then immediately reverse the fee, such that the net effect for the consumer will be the same but there is flexibility for the financial institution in its compliance.

VII. Investigating Claims of Unauthorized Transactions or Billing Errors

Currently, financial institutions may make a reasonable request of the consumer for his or her cooperation in investigating alleged fraudulent or unauthorized charges. However, the financial institution may not automatically deny a claim based on a failure or refusal to provide that assistance or cooperation. The Board's proposal would clarify that a financial institution may not deny a consumer's claim that a transaction was unauthorized solely based on the consumer's failure to comply with a request to sign a written affidavit or file a police report.

We appreciate the Board's concern that requiring items from a consumer, such as a written affidavit or police report, could have a negative effect on the consumer's efforts to dispute charges. We recognize that requesting an affidavit or police report is not an insignificant request, but we note that the gravity of the request indicates the importance to the consumer of the dispute. That is, the request elevates the consumer's dispute such that consumers will be less likely to file frivolous or fraudulent claims if they know they will be asked for an affidavit. Reducing fake claims will reduce costs overall to consumers, and a reasonable way to do so is to require a certain threshold commitment by the consumer to document the dispute.

We do note, however, that the Board has further clarified that if the financial institution does not have any other knowledge of the facts regarding a billing error, then lack of information from a consumer may nevertheless lead the financial institution to terminate the investigation and that the termination will be considered reasonable. We appreciate this clarification, but reiterate to the Board the importance of being able to request sufficient documentation from the consumer to document the facts of the dispute to the maximum extent.

VIII. Advertising Provisions

A. Introductory and Promotional Rates

Under current law, if a credit card issuer offers an introductory rate for credit in an application, solicitation, or promotional materials, the term "introductory" must be clearly and conspicuously provided in immediate proximity to the actual rate. The purpose of this disclosure is to ensure that consumers are made aware that the rate is not intended to be a permanent rate, and that the rate will increase at some point in the future.

The Board noted, however, that the phrase "introductory" rate may be confusing to consumers with an existing relationship with a financial institution, as "introductory" implies that there is a new account. The Board's proposal thus creates separate definitions for "introductory" and "promotional" rates, such that "introductory rate" will be defined as "a promotional rate offered in connection with the opening of an account." A "promotional rate" will be any APR applicable to one or more balances or transactions on a consumer credit card for a specified time that is lower than the APR in effect at the end of the period, or any APR applicable to one or more transactions on a consumer credit account that is lower than the APR applicable to other transactions of the same type. The Board further proposes that the date of the end of the promotional period must be disclosed, as well as the APR that will apply after the end of the promotional period.

We agree with the Board's assessment that "introductory" should be used to refer to new accounts and that "promotional" is a preferable term to refer to lower rates on existing account.

B. Deferred Interest Period

The Board also proposes addressing disclosures regarding deferred interest plans, through which a consumer can avoid paying interest on purchases during a set period if the consumer pays the balance in full prior to the expiration of that period. Though somewhat similar to the promotional rates that may be offered to some consumers, the Board noted that deferred interest offers would not necessarily fall within the definition of promotional rate and thus separate disclosure requirements are warranted. In many ways, the disclosures would be similar.

The Board's proposal would require that the deferred interest period be disclosed to the consumer and that additional information regarding the terms and conditions of the deferred interest offer be disclosed as well. The disclosures would be required to be made in close proximity to any statement regarding interest or payments made during the deferred interest period to ensure that consumers see the relevant information. The Board specifically proposes requiring a statement that, if the balance or transaction is not paid within the deferred interest period, interest will be charged from the date of the transaction. Additionally, if the minimum payment on the account would not be sufficient to enable the consumer to pay off the balance during the deferred interest period, the Board would require that the financial institution disclose this fact to the consumer.

We believe that the proposed disclosures will, on the whole, provide important information to consumers about deferred interest offers. However, as with other aspects of the Board's proposal, we have concerns regarding the increasing length of the various disclosures. Viewed in isolation, many of the disclosures have merit, but together they represent a significant amount of new disclosure requirements that would be lengthy and costly to produce. The Board's well-intended efforts to provide formatting requirements further complicate matters, as financial institutions already take great pains to fit the existing disclosures on appropriate-sized paper. Adding so many additional disclosures will drive up the costs to financial institutions in terms of production and postage and, ultimately, consumers' fees. We urge the Board to provide greater flexibility to financial institutions to allow them to implement the required disclosures in a manner that meets the needs of the customer base and that is not overly burdensome or costly. Additionally, we urge the Board to permit an implementation time that will allow the costs to be spread out, as reformatting the paper and online disclosure documents will take both time and financial resources.

IX. Additional Comments on Implementation

The Board requests comment on the operational burden that the proposed disclosure requirements would impose on creditors. As noted above, the Board's proposal includes requirements relating to disclosure of:

- Specific events that lead to increased rates (e.g., late payments, etc.);

- Foreign transaction fees in solicitations and applications;
- Minimum or fixed finance charges greater than \$1;
- For deferred interest products, the end date of deferred interest period on all statements during the period;
- For access checks that can be used after a promotional rate expires, the fact that the checks remain valid but not at the promotional rate;
- Summary of key terms at the time of opening any open-end loan product;
- Oral disclosure of actual minimum credit available if account fees total 25% or more of the credit offered; and
- The payment cut-off time for electronic payments, if prior to 5pm.

As this lengthy list indicates, the Board's proposal contains numerous additional disclosure requirements. The proposal also sets forth formatting requirements that are based on a presumption that the disclosures will be made via paper communication. The proposal does not address the extent to which electronic communications are increasingly replacing paper statements, whether banking via an institution's web site or through mobile devices. We are concerned that rigid requirements relating to font size for certain disclosures may make the disclosure difficult or impossible to read on a mobile device, which will negatively impact consumer receptivity to this emerging technology. We urge the Board to give financial institutions the flexibility necessary to provide the required disclosures to consumers via methods other than paper statements or applications in a manner that is appropriate both for the consumer and for the communication technology.

Complying with all of these requirements would make disclosures longer and more unwieldy for consumers. Consequently, many consumers may either be confused by the disclosures, or may simply ignore the disclosures altogether, as many would find it too burdensome to read the excessive text. Further, in many cases, the significant amounts of additional text would only be relevant to a small minority of consumers. For example, the requirement that financial institutions disclose, at application or solicitation, fees associated with international transactions (purchase transactions made in a foreign currency or conducted outside the United States), would add significant text to the disclosures. Many community banks and smaller financial institutions simply do not have a high volume of these transactions and thus the relevance of the disclosure to the vast majority of the customer base is negligible, at best. In this instance, the benefits that some consumers may experience as a result of such disclosures appear to be outweighed by the cost of reformatting and lengthening the disclosures.

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Another problem posed by requiring lengthy disclosures is that such disclosures will require a lot of paper. Specifically, such disclosures would encompass an 8x11 tri-fold piece of paper with an insert. Aside from the obvious environmental impact of using so much additional paper, such use would make applications considerably larger and require increased postage.

The financial cost to reformat disclosures to make them compliant with the proposed requirements would also be significant. In addition, as many of the applications are available to consumers online, the reformatting would be required not only of the paper version but of the online version as well, requiring additional time and resources. As such, we strongly urge the Board to consider an implementation time for these requirements of two years, so that the smaller financial institutions can plan accordingly for the costs and ensure that all new systems are in place before compliance is enforced.

III. Conclusion

We appreciate the hard work that the Board has undertaken with respect to this proposal and we share the Board's interest in making sure that consumers have all the necessary information regarding their financial accounts. However, we urge the Board to consider the foregoing comments and the extent to which some aspects of the proposal could lead to significant regulatory burden on financial institutions, and increased consumer confusion.

Should you have any additional questions or need any additional information, please do not hesitate to contact me.

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Sincerely,

Michael Weathers
Senior Vice President of Governance & CISO