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April 6, 2010

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

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

Subject: *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 Federal Reserve System (Board), entitled “Truth in Lending” (Docket No. R-1370). We received the rule on March 22, 2010. It was published in the *Federal Register* as a final rule on February 22, 2010. 75 Fed. Reg. 7658. The final rule was effective February 22, 2010.

The final rule amends Regulation Z, which implements the Truth in Lending Act, and the staff commentary to the regulation in order to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 that are effective on February 22, 2010. The final rule establishes a number of new substantive and disclosure requirements to establish fair and transparent practices pertaining to open-end consumer credit plans, including credit card accounts. In particular, the rule limits the application of increased rates to existing credit card balances, requires credit card issuers to consider a consumer’s ability to make the required payments, establishes special requirements for extensions of credit to consumers who are under the age of 21, and limits the assessment of fees for exceeding the credit limit on a credit card account.

The final rule, a major rule under the Congressional Review Act (CRA), has an announced effective date of February 22, 2010. CRA requires a 60-day delay in the

effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). The rule was published in the *Federal Register* on February 22, 2010, and we did not receive the rule until March 22, 2010. Therefore, the final rule does not have the required 60-day delay in its effective date.

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, with the exception of the effective date, 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: Linda Robertson
Assistant to the Board
of Governors
Federal Reserve System

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL RESERVE SYSTEM
ENTITLED
"TRUTH IN LENDING"
(DOCKET NO. R-1370)

(i) Cost-benefit analysis

The Board did not perform a cost-benefit analysis in conjunction with the final rule.

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

The Board performed a Regulatory Flexibility Analysis in conjunction with the final rule and concluded that the final rule will have a significant economic impact on a substantial number of small entities. The Board was unable to determine the number of small entities that will be affected by the final rule because the open-end credit provisions of the Credit Card Act and Regulation Z have broad applicability to individuals and businesses that extend even small amounts of consumer credit. Additionally, the total number of institutions of higher education likely to be affected is unknown because the number of institutions of higher education that are small entities and have a credit card marketing contract or agreement with a card issuer or creditor cannot be determined. The Board states that the final rule does not impose any new recordkeeping requirements, but that it does impose new reporting and compliance requirements. The Board notes that the precise costs to small entities to conform their open-end credit disclosures to the final rule and the costs of updating their systems to comply with the rule are difficult to predict, because it will depend on a number of factors unknown to the Board, including the specifications of the current systems used by such entities to prepare and provide disclosures and administer open-end accounts, the complexity of the terms of the open-end credit products that they offer, and the range of such product offerings.

The Board summarized several of the amendments to Regulation Z and their likely impact on small entities that are card issuers. The final rule generally requires the payment due date for credit card accounts under an open-end (not home-secured) consumer credit plan be the same day of the month for each billing cycle, which may require small entities that are card issuers to update their systems to comply with this provision. The final rule generally requires card issuers that are small entities to include on each periodic statement certain disclosures regarding repayment, such as a minimum payment warning statement, a minimum payment repayment estimate, and the monthly payment based on repayment in 36 months, which will require card issuers that are small entities to calculate certain minimum payment estimates for

each account. The Board plans to reduce the burden on small entities by providing model forms that can be used to ease compliance with the final rule.

The final rule requires card issuers that are small entities to provide notice regarding an increase in rate based on a consumer's failure to make a minimum periodic payment within 60 days from the due date and disclose that the increase will cease to apply if the small entity is a card issuer and receives six consecutive required minimum period payments on or before the payment due date; however, the Board anticipates that small entities will be able to incorporate the final rule's disclosure requirement with the disclosures already required under existing regulations with little additional burden. The final rule limits fees related to certain methods of payment for credit card accounts under an open-end (not home-secured) consumer credit plan, with the exception of payments involving expedited service by a customer service representative, which will reduce revenue that some small entities derive from fees associated with certain payment methods. The final rule generally limits the imposition of fees by card issuers during the first year after account opening, prohibits a card issuer from imposing certain finance charges as a result of the loss of a grace period on a credit card account, except in certain circumstances, and generally prohibits small entities that are card issuers from increasing an annual percentage rate or certain other fees or charges on a credit card account unless specifically permitted by an exceptions, each of which will reduce revenues. The final rule contains two provisions, to disclose, prior to the commencement of a specified period of time, an increased annual percentage rate that would apply after the period and to disclose, prior to commencement of the arrangement, the terms of a workout and temporary hardship arrangement that will not create any significant additional burden on small entities because they are already required by the July 2009 Regulation Z Interim Final Rule.

The final rule prohibits small entities that are card issuers from imposing fees or charges for an over-the-limit transaction unless the card issuer provides the consumer with notice and obtains the consumer's affirmative consent, or opt-in, which will impose additional costs on small entities in order to provide notice and obtain consent, if the small entity elects to impose fees or charges for over-the-limit transactions. This provision may also reduce revenue that certain small entities derive from fees and charges related to over-the-limit transactions and will require some small entities to alter their systems in order to comply with the provision. Finally, the final rule requires small entities that are card issuers to post agreements for open-end consumer credit card plans on the card issuer's Web site and to submit those agreements to the Board for posting in a publicly-available online repository established and maintained by the Board, and the cost of compliance will depend on the size of the institution and the composition of its portfolio. However, the final rule also provides a de minimis exception, so that a card issuer with fewer than 10,000 open accounts under open-end consumer credit card plans is not required to submit an agreement to the Board which will reduce the economic impact and compliance burden on small entities.

(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.

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

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

On July 22, 2009, the Board published an interim final rule to implement the provisions of the Credit Card Act that became effective on August 20, 2009, and solicited comments with comment period that ended September 21, 2009. 74 Fed. Reg. 36,077. On October 21, 2009, the Board published a proposed rule in the *Federal Register* to implement the provisions of the Credit Card Act that become effective February 22, 2010. 74 Fed. Reg. 54,124. The Board received approximately 150 comments in response to the proposed rule, including comments from credit card issuers, trade associations, consumer groups, individual consumers, and a Member of Congress. The Board considered comments received in the response to the interim final rule and the proposed rule in adopting the final rule. 75 Fed. Reg. 7,658.

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

The final rule contains information collection requirements under the Paperwork Reduction Act, which are approved under the Office of Management and Budget (OMB) control number 7100-0199. The Board accounts for the paperwork burden associated with Regulation Z for state member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. Other federal agencies account for the paperwork burden on other entities subject to Regulation Z. The final rule will impose a one-time increase in the total annual burden under Regulation Z for all respondents regulated by the Federal Reserve by 575,452 hours, and the Board expects that the amount of time required to implement each of the changes adopted by the final rule for a given financial institution or entity may vary based on size and complexity of the respondent. Also, the Board estimates that the final rule will increase the total annual burden on a continuing basis by 70,400 hours. The total annual burden will increase by 645,852 hours from 1,008,962 to 1,654,814 hours.

Statutory authorization for the rule

The final rule is authorized by the Credit Card Accountability Responsibility and Disclosure Act of 2009, Pub. L. 111-24, 123 Stat. 1734 (2009).

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

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

Executive Order No. 13,132 (Federalism)

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