



GAO

Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

B-320173

July 22, 2010

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. 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-1384). We received the rule on July 9, 2010. It was published in the *Federal Register* as a final rule on June 29, 2010, with a stated effective date of August 22, 2010. 75 Fed. Reg. 37,526.

The final rule implements provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act)¹ by amending Regulation Z. Specifically, this rule requires that penalty fees imposed by card issuers be reasonable and proportional to the violation of the account terms. The rule also requires credit card issuers to reevaluate at least every 6 months annual percentage rates increased on or after January 1, 2009. The rule further requires that notices of rate increases for credit card accounts disclose the principal reasons for the increase.

The Congressional Review Act requires major rules to have a 60-day delay in their effective date following their publication in the *Federal Register* or receipt by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This rule was published in the

¹ Pub. L. No. 111-24, 123 Stat. 1734 (May 22, 2009).

Federal Register on June 29, 2010, and received on July 9, 2010, but has a stated effective date of August 22, 2010. Therefore, this final rule did not have a 60-day delay between the date published or received and the stated effective date.

Notwithstanding the 60-day requirement, the Congressional Review Act allows any rule—that an agency for good cause finds that the notice and public comment procedures are impractical, unnecessary, or contrary to the public interest—to take effect when the promulgating agency so determines. 5 U.S.C. § 808(2). In its submission, the Board did not address the 60-day delay requirement of the Congressional Review Act. However, the Board did address other provisions of law requiring a delay in the effective date. In general, rules prescribed by federal banking agencies imposing additional reporting, disclosures, or other new requirements on insured depository institutions are to take effect no earlier than the first day of the calendar quarter which begins on or after the date in which the rule is published. 12 U.S.C. § 4802(b)(1). In addition, the Administrative Procedure Act generally requires a 30-day delay between publication and effective date. 5 U.S.C. § 553(d). Both of these delay requirements contain exceptions for circumstances in which the agency made a good cause determination.

In addressing these two delay requirements, the Board noted that provisions of the Credit Card Act implemented by this rule are effective August 22, 2010, and determined that the statutory effective date established good cause for this rule to be effective on August 22, 2010. Although the Board did not directly address whether good cause exists to waive the Congressional Review Act's 60-day delay, the Board found good cause to waive other similar delay requirements.

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: Linda Robertson
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
FEDERAL RESERVE SYSTEM
ENTITLED
"TRUTH IN LENDING"
(DOCKET NO. R-1384)

(i) Cost-benefit analysis

According to the Federal Reserve System (Board) submission, the Board did not prepare an analysis of the costs and benefits with respect to this final rule.

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

The Board determined that this final rule will have a significant economic impact on a substantial number of small entities. Accordingly, the Board prepared a Final Regulatory Flexibility Analysis which covered the need for and objectives of the rule; significant issues raised by public comment and responses to those comments; a description and estimate of small entities affected; a description of reporting, recordkeeping, and other compliance requirements and their impact on small entities; and steps the agency took to minimize any adverse economic impact 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 Mandates Reform Act does not apply to independent regulatory agencies, such as the Board.

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

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

On March 15, 2010, the Board published a proposed rule. 75 Fed. Reg. 12,334. The Board received more than 22,000 comments from consumers, consumer groups, other government agencies, credit card issuers, industry trade organizations, and others, which it considered in adopting this final rule.

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

The Board determined that this final rule contains an information collection requirement under the Act. The Office of Management and Budget control number for this information collection requirement is 7100-0199.

Statutory authorization for the rule

The Board promulgated this rule under the authority of sections 2, 101(c), and 102(b) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 and sections 1604(a), 1604(f), 1037(c)(5), and 1663 of title 15, United States Code.

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

The Order does not apply to independent regulatory agencies, such as the Board.

Executive Order No. 13,132 (Federalism)

The Order does not apply to independent regulatory agencies, such as the Board.