

From: Palmetto Health Credit Union, Harry Metz  
Subject: Reg Z - Truth in Lending

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Comments:

August 10, 2009

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

Re: Docket No. R-1364,

Dear Ms. Johnson,

This is in response to our review of the requirements of the Credit CARD Act and is intended to offer our comments as to the impact and operational burden posed by this regulation. As written, the 21 day requirement on open-end loans will result in significant and adverse changes in credit union operation and effectiveness. The problems presented by this requirement give clear indication of a lack of consideration of the unique operational aspects and member service procedures of credit unions. Since this credit union utilizes an open-end lending system, the consequences of this regulatory requirement are significant.

The short term effective date and the magnitude of the compliance requirements combine to present the credit union a very difficult dilemma. In the time of a difficult economy and consumer uncertainty, the impact of complying with this regulation will be exceedingly expensive and disruptive.

A number of approaches are under consideration to comply with the 21 day rule of the Credit CARD Act. However, the possible courses of action include significant hardships on the credit union and the membership.

The following is a brief overview of the possible alternative approaches to compliance with the 21 day requirement:

1. Change due dates and establish a uniform payment due date

Since we provide consolidated statements an option is to change the mandatory payment due dates for all open-end loans to a date that is at least 21 days after the statement is mailed or delivered.

Our statements are sent at the beginning of the month, and the consideration is to change due dates to the end of the month in order to provide at least 21 days between the mailing of the periodic statement and the due date. It is hoped this would enable regulatory compliance.

However, this approach would include a number of problems for the credit union and our members. This approach would require a number of changes in credit unions' data processing systems, such as aggregating voluntary payments made more often than monthly. Another concern is the process for changing bi-weekly

or semi-monthly payment due dates that are set by contract to one contractual payment due date in order to conform to the 21-day timing requirement. There is also a concern over the impact this approach will have on delinquency calculations.

As a smaller credit union, we expect there could be cash flow problems with all payments occurring at the end of the month. There is also a concern that demands on branch personnel might spike at month-end if most payments are due around the same date. There will also be a need for extensive member education to explain why a uniform payment due date is being established.

We will need to review the language in all loan documents concerning the right to make certain changes and incur the expense of legal counsel to determine whether changes may impact state law.

## 2. Include the current and following month's payment due dates on the periodic statement

This option calls for us to print on the current periodic statement the current month's payment due date(s) (which in many cases will not comply with the 21-day timing requirement from the date the statement is mailed) as well as the due date(s) for the following month. This approach appears to comply with the language of the law, since all of next month's payment due dates are certainly more than 21 days after the periodic statement is mailed and the current due dates would be disclosed in the prior month's periodic statement.

However, FRB attorneys and others have indicated that this may not comply with the "spirit" of the law and regulation. Our concern is over the possibility that future regulatory interpretations (such as through the Commentary) may state this option is not compliant with the rule. This would result in our being required to make additional changes impacting credit union operations and the membership. This could be confusing for the members, which will require substantial member education about these changes.

## 3. Retain existing due dates and send out multiple periodic statements

Under this option, the credit union would establish multiple billing cycles with corresponding periodic statements mailed on different dates so that each individual periodic statement is mailed at least 21 days prior to the loan due date. The end result would be to send out separate periodic statements for loans.

A major concern about this approach is that our mailing and statement processing costs would increase dramatically. It is estimated that four or more separate billing cycles may be necessary to accommodate all payment due dates. There is also a concern about bi-weekly or semi-monthly contractual payment due dates still would have to be changed to one contractual due date in order to comply with the 21-day timing requirement. The members could receive numerous statements under this option, increasing their confusion and questions as they are accustomed to consolidated statements.

There is also a concern about the requirements of Regulation Z regarding "billing cycles" if the credit union retains existing due dates and changes the date of its statements based upon new multiple billing cycles.

## 4. Use the special notice on the periodic statement throughout the fall and

investigate alternatives

Under this approach, a credit union would provide on the first periodic statement issued after August 20th the special notice allowed by the Fed which states that, regardless of the payment due dates printed on the periodic statement, the member has 21 days to pay without penalty.

This approach will require caution and a conscientious effort by the credit union to closely monitor automated systems to make sure that actions taken are not inconsistent with the special notice provided to members. Such action could include triggering late payment fee assessments based on the date printed on the periodic statement.

Another concern of this approach is the credit union does not appear to be making a reasonable attempt to comply with the requirements of the law and may face an increased risk of litigation or an enforcement action by the NCUA or the FTC.

Each of the compliance approaches available to the credit union presents problems and costs. The most significant concern is the potential adverse impact of compliance efforts on our membership. The compliance costs and the disruption of current long standing practices will be a burden to the membership.

Many members have long utilized bi-weekly payments and the ability to select specific loan due dates as financial management tools. Members typically select a payment due date to coincide with a specific pay period as a means to manage their budget and cash flow. This regulation will effectively eliminate the credit union's ability to offer these member services.

The efficiency and convenience of consolidated statements may be lost in the effort to comply with the 21 day requirement of the Credit CARD Act. Multiple statements and increased mailing costs may be the most significant legacy of the regulation as it currently stands.

There is significant concern about the adverse impact this regulation may have on open-end lending. The considerations of a number of financial institutions include the reduction or elimination of open-end lending plans. This type of loan is cost effective and very convenient for the consumer. Such changes could have the adverse result of increasing the cost and reducing the convenience of credit.

This regulation will cause a significant increase in operational expenses which will be ultimately borne by the credit union's membership. We are also very concerned that it will simply be impossible to comply with this regulation by August 20th, regardless of the amount of funds we devote to making the necessary changes.

In light of these issues, it is critical the Board use its authority under the Truth in Lending Act to allow more time for credit unions to comply with these provisions. It is also our request that consideration be given to the issues presented above and that amendments to the regulation be made to accommodate our unique operations, our current member services and eliminate the undue compliance burdens currently facing the credit union and our members.

Sincerely,

Harry L. Metz, Jr.  
Palmetto Health CU