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

Re: Docket No. R-1314 – Proposed Amendments to Regulation AA
Docket No. R-1286 – Proposed Amendments to Regulation Z

Dear Ms. Johnson:

Citigroup, one of the largest U.S. financial services holding companies, respectfully submits these comments in response to the proposed revisions by the Federal Reserve Board (the "Board"), Office of Thrift Supervision, and National Credit Union Administration (collectively, the "Agencies") to their regulations regarding unfair or deceptive acts or practices in connection with consumer credit card accounts (the "UDAP Proposal") and by the Board to the open-end credit rules of Regulation Z, 12 C.F.R. § 226 (the "Regulation Z proposal"). Both proposals were published in the *Federal Register* on May 5, 2009. These proposals would amend the final rules published January 29, 2009.

Citigroup strongly supports the general sweep of the regulatory reform begun with the Board's Advanced Notice of Proposed Rulemaking in December 2004. We continue to believe that issuers and consumers alike benefit when disclosures are simpler and easier to understand. As we have stated throughout the regulatory review process, we believe that enhanced clarity and transparency of credit card disclosures will create a more vibrant market and benefit industry and consumers alike.

This reform effort will necessitate comprehensive changes to disclosures and pricing practices. We have begun the painstaking process of changing our policies, systems, and documentation to implement the rules, and in so doing have identified areas where the requirements are unclear and where additional guidance would be beneficial. Together with other industry participants, we have raised a series of issues and questions with Agency staff. We deeply appreciate the Agencies' willingness to provide additional guidance in such an expeditious manner by publishing clarifications even before the final rules go into effect. This effort on the Agencies' part will reduce inadvertent errors and help expedite the process as the

industry scrambles to make all the changes necessary to be in compliance by the rules' effective date.

We would like to highlight two particular areas where the Agencies' clarifications and guidance will result in more credit options with better pricing and simpler, clearer, and more noticeable disclosures. As explained in more detail below, the first is the Agencies' clarifications regarding deferred interest programs. As one of the leading providers of retail private label credit programs, Citi is keenly aware of the extent to which consumers and merchants value and utilize deferred interest promotions. The new guidance on how to properly advertise, administer, and disclose deferred interest promotions will benefit all market participants. The second is the clarification that issuers may provide rate information at point of sale on the register receipt or similar document when the applicable rate is based on the customer's creditworthiness. This change will allow issuers to offer some consumers lower rates, and will benefit consumer, retail private label merchant, and issuer alike by facilitating compliance and reducing inadvertent error.

Citi's specific comments on various provisions in the proposals are presented below. We first address the UDAP Proposal and then the Regulation Z Proposal. For the Agencies' convenience, we have organized our comments by the section order of the regulations.

A. UDAP Proposal

§ 21 Definitions

Citi supports the additional guidance concerning the definition of annual percentage rate, found in new comment 21(a)-1 and concerning the definition of consumer credit card account, found in new comments 21(c)-1, -2, and -3. In particular, the additional guidance clarifying the scope of transactions and balances that are subject to the UDAP rule's provisions will provide more certainty regarding issuers' obligations and will facilitate compliance.

§ 22 Time to Make Payments

Citi urges the Agencies to provide additional guidance concerning the definition of "mailed or delivered" as used in the safe harbor provision in § 22. Citi, like most major issuers, works closely with the U.S. Postal Service to ensure that statements are delivered as efficiently as possible. Because of this close relationship, we believe a bright line rule is necessary to establish when a statement is mailed for purposes of the safe harbor.

The mailing process begins with a presort process in accordance with U.S. Postal Service guidelines. This process consists of a number of steps. First, Citi prints and inserts monthly billing statements into envelopes. Second, the envelopes are sorted through an electronic system called "Postal One." Postal One, which is validated and certified by the U.S. Postal Service, reads the barcode on the statements to identify the destination and select the method of transportation (*e.g.*, air, car/truck or rail, or delivery to the local post office facility). Third, the statements are placed in sealed trays on pallets and Citi transfers possession and control of the trays to the U.S. Postal Service employee who is onsite. Significantly, once the trays are sealed, Citi cannot reclaim the trays, or modify, change, or alter their content (*e.g.*, Citi cannot remove statements from the trays).

Accordingly, we urge the Agencies to adopt an additional comment 22(b)-4 which would clarify that a bank has mailed a statement when it relinquishes control over the statement to the U.S. Postal Service. Possible language would be as follows:

> Comment 22(b)-4. *Mailed or delivered.* For purposes of § 227.22(b)(2) a bank has mailed or delivered a statement when it relinquishes to the U.S. Postal Service control over the statement, in accordance with applicable U.S. Postal Service guidelines.

We believe this guidance, which is consistent with the plain language of the rule, is necessary to provide certainty and a level playing field. The timing rule carries great financial significance, and industry will be under competitive pressure to measure it carefully. Accordingly, we urge the Agencies to adopt a specific comment with a bright line rule that a bank has mailed or delivered a statement when it relinquishes control over the statement to the U.S. Postal Service.

§ 23 Payment Allocation

Citi supports the various changes made in the current proposal to the payment allocation provisions. The proposed revisions are consistent with the goals of the rule and provide needed clarification and guidance. However, as discussed below, we have some specific observations and issues which we believe require additional clarification.

Deferred interest

We strongly support the proposed implementation guidance regarding deferred interest promotions, and suggest certain modifications which we believe will clarify the provision and provide further benefit to consumers. First, a technical correction would help clarify proposed § 23(b) concerning payment allocation at the end of a deferred interest promotional period. Section 23(b) would require issuers to allocate payments in excess of the minimum due first to the deferred interest promotional balance during the two billing cycles immediately preceding expiration of the promotional period. This language, on its face, does not appear to permit excess payments made during the billing cycle in which the promotion expires to be allocated to the promotional balance (although the example in comment 23(a)(1)-1.v. suggests a contrary interpretation). Thus, we recommend that the regulation be revised to clarify that an issuer must allocate excess payments first to the deferred interest balance in the billing cycle in which the deferred interest promotion expires.

In the proposal, the Agencies request comment on whether the special allocation rule in proposed § 23(b) should be required during a shorter or longer time period than the last two billing cycles of the deferred interest period. We recommend that it only be required in the final billing period for the reasons set forth below.

We support the guidance in comments 23-6 and 23(a)(1)-1.v which clarifies that a deferred interest balance is generally last in the payment hierarchy under the high-to-low method. Under this approach, particularly if the issuer offers a grace period on other purchases, the consumer receives a greater benefit from a deferred interest promotion. To elaborate, some issuers, like Citi, allow a consumer with a deferred interest promotion to enjoy a grace period on

other purchases. For example, a consumer may purchase a washing machine on a one year deferred interest promotion and also purchase clothing throughout the year. Under Citi's current payment allocation procedures, as long as each month the consumer pays the minimum due attributable to the washing machine and the cost of the clothing bought the previous month and pays the outstanding principal due on the washing machine by the expiration of the promotion, the consumer will pay no interest on either the clothes or the washing machine. Under the proposed rule, an issuer using the high-to-low method can continue to allocate payments in a way that allows a consumer to get a grace period on new purchases without having to repay the entire deferred interest balance until the special allocation requirement of § 23(b) applies.

Under the proposed two billing cycle requirement of § 23(b), in order to take advantage of the grace period, a consumer would have to repay the outstanding deferred interest promotion in addition to the new purchase balance in the billing period before the billing period in which the promotion expires. This timing would be difficult for consumers to understand, and thus likely cause them to pay interest that they did not expect to pay. To clarify the provision and allow consumers to enjoy the full advertised extent of both the grace period and promotional period, we urge the Agencies to revise § 23(b) as follows:

> § 227.23(b) *Special rule for accounts subject to certain promotional programs.* When a promotional program provides that a consumer will not be obligated to pay interest that accrues on a balance if that balance is paid in full prior to the expiration of a specified period of time, the bank must allocate amounts paid by the consumer in excess of the required minimum periodic payment first to that balance during the ~~two~~ billing cycles in which ~~immediately preceding expiration of~~ the specified period expires. ~~and any~~Any remaining portion shall be allocated to the other balances consistent with paragraph (a) of this section. [Conforming changes would be made to comments 23-6 and 23(a)(1)-1.]

We also suggest the Agencies give consumers greater control with respect to repaying deferred interest balances. In our experience, consumers may call at different points during their promotional periods and ask us to allocate excess payments to a deferred interest balance first to assist them in paying off that balance before expiration. Consumers are empowered to make these requests because, on every statement, we show the remaining promotional balance and the expiration date for the promotion. We accommodate these requests to the extent possible because we want our customers to be able to pay off their promotional balances in a way that suits their cash flow needs. The proposal would prevent us from making these accommodations and could leave consumers materially worse off and frustrated that they were not able to direct their payments as they wished. Accordingly, we urge the Agencies to consider modifying the rule to permit issuers to accommodate consumers' payment allocation requests with regard to deferred interest promotions by adopting an additional comment as follows:

> Comment 23(b)-2. *Consumer modification.* If an account is subject to a promotional program subject to § 23(b), the issuer is permitted to comply with a consumer initiated request to alter the payment allocation methodology.

Other Situations Requiring a Special Allocation Method

In response to the Agencies' request for comment, we believe that issuers should be permitted to apply the special allocation rule in § 23(b) to accounts that offer a grace period to consumers who repay a specified portion of the balance (even if they do not repay the entire outstanding balance). For example, certain accounts have a "charge" and a "revolve" feature. Under the terms of these hybrid accounts, to retain a grace period on new purchases, the consumer must repay the charge balance each month but does not need to repay the entire revolve balance each month. Allocating excess payments first to the charge portion gives the consumer the maximum opportunity for a grace period. Unless allocation like that authorized in § 23(b) is extended to this type of product, the regulation would effectively prohibit issuers from offering such accounts since issuers would be unable in all cases to allocate excess payments in a way that would ensure that consumers who repay the charge balance and the minimum due attributable to the revolve balance could get the benefit of the advertised grace period. Instead, the availability of the grace period would depend on the other balances on the account. Thus, we recommend that the following provision be added to § 23:

> § 227.23(c) *Special rule for accounts with a grace period.* With respect to accounts with a grace period that only requires consumers to pay certain balances in full each billing cycle, the bank is permitted to allocate amounts paid by the consumer in excess of the required minimum periodic payment first to the balance(s) subject to the grace period, except as otherwise required under paragraph (b). Any remaining portion shall be allocated to the other balances consistent with paragraph (a) of this section.

§ 24 Increases in APRs

Citi supports the proposed addition of comment 24-3 which would define a "category of transactions." We appreciate the clarification of this concept which is both novel and fundamental to the UDAP rule. The examples are helpful and the guidance will facilitate the continued availability of promotional offers based on type of purchase (such as purchases at gas stations, convenience stores, and grocery stores). Another common type of promotional offer, particularly among issuers of retail private label cards, is one based on the purchase amount. For example, to facilitate major purchases, a private label program might offer 3% for 6 months on purchases of $99-$299, 0% for 6 months on purchases of $299 or more, and the standard purchase rate for purchases of less than $99. It is unclear whether these categories would be a "category of transactions" under the rule. Accordingly, in response to the Agencies' request for comment, we urge the Agencies to clarify that categories based on transaction amount are a "category of transactions" under the rule. The revised comment would read as follows:

> Comment 24-3. *Category of transactions.* For purposes of § 227.24, a "category of transactions" is a type or group of transactions to which an annual percentage rate applies that is different than the annual percentage rate that applies to other transactions. For example, purchase transactions, cash advance transactions, and balance transfer transactions are separate categories of transactions for purposes of § 227.24 if the bank applies different annual percentage rates to each. Furthermore, if, for example, the bank applies different annual percentage rates to different types of purchase transactions

(such as one rate for purchases of gasoline and a different rate for all other purchases, or one rate for purchases over $200 and a different rate for all other purchases), each type of purchase constitutes a separate category of transactions for purposes of § 227.24.

§ 24(a) General Rule

We support the revisions, clarifications, and additions to § 24(a). These changes are consistent with the regulation and will facilitate compliance. The revisions leave unanswered, however, the interaction between the restriction on changes within the first year and the delinquency exception, particularly with regard to the timing of the delinquency notice. We would appreciate it if the Agencies would clarify in comment 24(a)-2.i.B whether, during the first year an account is opened, on the first day a consumer is late, an issuer may send a notice indicating all balances will be increased to the default rate if the account becomes 30 days late. Comment 24(a)-2.iii.B clearly states in its example that the notice must be sent no earlier than when the account is 30 days late. In contrast, under the facts in comment 24(a)-2.i.B, the notice is sent when the account is 30 days late, but the comment does not state that the notice must be sent no earlier than when the account is 30 days late. Accordingly, we are not sure which is the relevant timing standard and would appreciate clarification of this point.

§ 24(b) Exceptions

Deferred Interest and Similar Promotional Programs

We strongly support the changes made regarding the treatment of deferred interest programs generally, and specifically the deletion of the example in comment 24(b)(1)-1.iii. Deferred interest programs provide substantial benefits to consumers who pay the balance in full prior to expiration of the program. The continued ability to provide these promotions to customers is important to merchants who see them as an important tool for giving their customers value and flexibility. We believe that the Agencies' revised rules and guidance concerning these programs will ensure that consumers fully understand these programs and continue to have the opportunity to benefit from these programs. We appreciate the elimination of the distinction between "deferred interest" and "waived interest" programs and believe the new structure will provide greater certainty for issuers, merchants, and consumers.

Servicemembers Civil Relief Act Exception

Citi supports the addition of a Servicemembers Civil Relief Act exception in § 24(b)(6). It is consistent with that Act's provisions and a logical extension of the rule. However, we request a technical clarification that the rate at the end of the period of military service is the rate that otherwise would have applied at that time under the card agreement, rather than the specific rate that was applicable before the military service began. For example, if a promotional rate on a category of transactions expires to the purchase rate during the period of military service, when the military services ends, the purchase rate will apply to that category of transactions. Accordingly, we propose the following language:

§ 227.24(b)(6). *Servicemembers Civil Relief Act exception.* An annual percentage rate that has been decreased pursuant to 50 U.S.C. app. 527 may be

increased once that provision no longer applies, provided that the annual percentage rate applicable to a category of transactions following any such increase does not exceed the rate that would apply ~~applied~~ to that category of transactions in accordance with the terms of the agreement that were in effect at the time of ~~prior to~~ the decrease.

Other Support: § 24(b), § 24(c) and § 25

Citi also supports the other changes to and clarifications regarding the proposed exceptions in § 24(b), as well as the changes and clarifications to §§ 24(c) and 25. In particular, we appreciate and support the clarification presented in new comment 24(b)-1 concerning delayed implementation of rate increases. We also would like to express our specific support for the revisions to § 24(b)(3) which add a § 226.9(b) notice to the list of notices which, if provided in accordance with Regulation Z, support a change based on advance notice. The guidance provided in comment 24(b)(3)-2 concerning operation of the 7-day rule will facilitate compliance. We also appreciate and support new comment 24(b)(3)-4. The additional guidance and examples effectively clarify the requirements in the context of promotional offers and resolve many questions raised by the final rules. The expansion of the workout exception in § 24(b)(5) will be of significant benefit to consumers and will enhance issuers' ability to reach accommodations with borrowers experiencing temporary hardships. Citi also supports the additional guidance provided in comment 24(c)(2)-1 regarding fees and charges based on protected balances, as it is helpful and consistent with the regulation. For the same reasons, Citi supports the addition of comment 25(a)-3 clarifying that § 25 does not prohibit the institution from charging accrued interest under a deferred interest provision if the balance is not paid in full prior to the specified date.

REGULATION Z

§ 5a Credit and Charge Card Applications and Solicitations

We support new comment 5a(b)(1)-9 clarifying that an issuer offering a deferred or waived interest plan may not disclose the rate as 0%. This guidance is consistent with the regulation, best practices, and Citi's current practices.

§ 6 Account-Opening Disclosures

Citi supports the changes made to § 6 in the current proposal. In general, we believe these changes will facilitate compliance and enhance competition in the credit card industry. Specifically, we strongly support the revisions to § 6(b)(2)(i)(E), which permit account-opening disclosures provided at point of sale to cross-reference an accompanying cash register receipt for the applicable APR based on the consumer's creditworthiness. Currently, issuers communicate the applicable APR to the clerk via the cash register. The cash register automatically prints the APR on the receipt, and the clerk need only pass the receipt to the consumer. Absent this clarification, issuers would have to print separate account-opening disclosures for each possible rate and the clerk would have to select the appropriate disclosure to hand to the consumer -- a process which poses a much higher risk of inadvertent error. The revisions will thus promote

lower pricing for some consumers by facilitating the continued use of risk-based pricing, and improve compliance by reducing the risk of inadvertent noncompliance.

Citi also supports the Board's revision to § 6(b)(4)(ii), which clarifies that disclosures at point of sale need to be updated only if the disclosures become inaccurate because the variable rate changes. This revision eliminates unnecessary burden by clarifying that issuers need not destroy accurate disclosures and print new ones simply because an "as of" date has changed. We appreciate the Board's efforts to reduce burden particularly where, as here, doing so will not adversely impact the consumer.

Finally, in response to the Board's request for comment, we agree that transition rules are needed for creditors that offer open-end credit secured by real property that is not the consumer's dwelling and therefore the credit is not covered by § 5b. In some circumstances, it may be unclear whether a particular piece of property is, or continues to be, a dwelling. Accordingly, we believe that it is appropriate to permit creditors offering open-end credit secured by real property that is not the consumer's dwelling to continue to comply with the existing rules until the Board's review of the rules applicable to home-secured open-end credit is completed.

§ 7 Periodic Statement

Deferred Interest

Citi supports new § 7(b)(14) and revised comment 7(b)-1, which require creditors to make certain disclosures with regard to deferred interest promotions. We also support Sample G-18(H). The required disclosures and revisions will promote consumer understanding and transparency to the benefit of consumers, issuers, and merchants. We note that Citi includes the expiration date of the promotion on every billing statement during the life of the promotion because we believe it better allows the consumer to manage the repayment of those offers.

§ 7(b) Interest and fees for acquired or modified accounts

New comments 7(b)(6)-6 and -7 would provide that if an account is acquired, upgraded, replaced, or otherwise changed in some way, a creditor must include, in the year-to-date totals, the interest charges and fees incurred by the consumer prior to the change. Citi supports the proposal to the extent it is limited to a transfer within the same institution. However, Citi envisions significant operational hurdles if the requirement extends to account transfers between institutions, such as when an issuer acquires an account from a different issuer. The issuer selling the account typically provides information on rates and balances but does not provide a complete account history from which the acquiring issuer could determine interest and fee information for the year to date. Moreover, since the prior account history would be pursuant to another issuer's card agreement and customer service procedures, the acquiring issuer would be unable to answer customer questions about the totals, which would create customer relationship problems.

Liability for errors is another concern. Under the revised rule, the acquiring issuer would be liable for errors in data over which it would have no control and about which it would not have complete information. Although the acquiring issuer could seek indemnification from the selling issuer, indemnifications have limitations, particularly if the selling issuer is insolvent. Moreover, indemnifications cannot mitigate reputation risk from improper disclosures. The operational concerns are particularly acute in the private label context. If a merchant moves its relationship from one issuer to another, the issuer losing the contract to offer the merchant's card has little incentive to cooperate in providing this information to the new issuer. For all these reasons, we urge the Board to limit the requirement to include prior account history to accounts within the same institution.

§ 9 Subsequent Disclosure Requirements

Citi supports the technical corrections and the new substantive guidance in revised § 9. We particularly support the guidance in §9(c)(2)(iv) and comment 9(c)(2)-4, with regard to the requirements of § 9(b). These revisions make clear the relationship between §§ 9(b) and 9(c) and will facilitate compliance. The disclosure requirements in § 9(b) have not received significant attention in the past and the additional guidance is welcome, particularly with the advent of the new check disclosure requirements. We also appreciate the clarification found in comment 9(c)(2)(iv)-2 concerning the notice requirements for creditors offering a temporary rate reduction. The requirements had been unclear and this additional guidance will facilitate compliance. Finally, we appreciate the expansion of the workout exception in § 9(g)(4)(i) to temporary hardship arrangements. This revision will benefit consumers and issuers alike by facilitating efforts to reach accommodations with consumers who are experiencing financial difficulties.

§ 12 Special Credit Card Provisions
§ 13 Billing Error Resolution

We support the revisions to comments 12(b)-3 and 13(f)-3, concerning the reasonable investigation standard for a claim of an unauthorized transaction or a billing error. The Board strikes the appropriate balance between good faith and the free exercise of rights. We believe that expressly permitting a signature requirement while continuing to prohibit a requirement for a signature made under penalty of perjury will facilitate expedited resolutions.

§ 16 Advertising

Citi supports the guidance in new § 16(h) and the related commentary addressing advertising standards for deferred interest offers. We believe that the requirements codified in the regulation should promote greater consistency among advertisers, which in turn will produce greater consumer understanding of and benefit from deferred rate offers.

Appendix G – Model Forms and Clauses

Citi supports the technical and conforming changes to Model Form G-10A (Schumer Box) and Sample Form G-18(G) (minimum payment warning) and the addition of Model

Clauses G-18(H) and G-22(a) and (b). We find model forms and clauses very useful and appreciate the Board's efforts to keep the forms current with the evolving regulatory requirements. We also appreciate the technical and conforming changes that were made to the commentary to the model forms. These clarifications are consistent with the regulation and facilitate compliance.

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On behalf of Citigroup, I thank you again for this opportunity to comment on the Board's recently proposed amendments to Regulation Z's open-end credit rules. If you have questions on any aspects of this letter, please call me at (212) 559-2938 or Karla Bergeson at (718) 248-5712.

Sincerely,

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Cc: Joyce ElKhateeb
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