



United States Government Accountability Office
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April 2, 2009

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

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Minority 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 (Federal Reserve), entitled "Truth in Lending" (Regulation Z; Docket No. R-1286). We received the rule on March 18, 2009. It was published in the *Federal Register* as a final rule on January 29, 2009. 74 Fed. Reg. 5244.

The final rule amends Regulation Z, which implements the Truth in Lending Act (TILA), and the staff commentary to the regulation, following a comprehensive review of TILA's rules for open-end (revolving) credit that is not home-secured. The final rule will be effective on July 1, 2010.

The final rule expands the circumstances under which consumers receive written notice of changes in the terms (e.g., an increase in the interest rate) applicable to their accounts, and increases the amount of time these notices must be sent before the change becomes effective. Specifically, the rule increases the advance notice before a changed term can be imposed from 15 to 45 days and requires the 45 days' prior notice before the creditor increases a rate either due to a change in the terms applicable to the consumer's account, the consumer's delinquency or default, or as a penalty.

The final rule adopts revisions to make disclosures on periodic statements more understandable, primarily by making changes to the format requirements, such as by grouping fees and interest charges together. The changes include itemizing interest charges for different types of transactions, such as purchases and cash advances, grouping interest charges and fees separately, and providing separate totals of fees and interest for the month and year-to-date. It also requires disclosure of the effect of making only the minimum required payment on the time to repay balances, as required by the Bankruptcy Act. The final rule eliminates the requirement to disclose an “effective APR.”

The final rule revises the rules governing advertising of open-end credit to help ensure consumers better understand the credit terms offered. These revisions include requiring advertisements, which include a periodic payment amount on a plan offered to finance the purchase of goods or services, to state, in equal prominence to the periodic payment amount, the time period required to pay the balance and the total of payments if only periodic payments are made. It also permits advertisements to refer to a rate as “fixed” only if the advertisement specifies a time period for which the rate is fixed and the rate will not increase for any reason during that time, or if a time period is not specified, if the rate will not increase for any reason while the plan is open.

The final rule makes format and content changes to make the credit and charge card application and solicitation disclosures more meaningful and easier for consumers to use. These changes include new requirements regarding type size, the use of boldface for certain key terms, and placement of information, along with revising content to require creditors to disclose the duration that penalty rates might be in effect, a shorter disclosure about variable rates, new descriptions when a grace period is offered on purchases or when no grace period is offered, and a reference to consumer education materials available on the Federal Reserve’s website.

Finally, the final rule also adopts requirements for cost disclosures provided at account opening to make the information more conspicuous and easier to read. These changes include disclosing certain key terms in a summary table at account opening, in order to summarize for consumers key information that is most important to informed decision making, and adopting a different approach to disclosing fees, to provide greater clarity for identifying fees that must be disclosed.

Enclosed is our assessment of the Federal Reserve’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 Federal Reserve 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: Laricke Blanchard
Assistant to the Board
Board of Governors of the
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"
(REGULATION Z; DOCKET NO. R-1286)

(i) Cost-benefit analysis

Federal Reserve did not prepare a cost-benefit analysis. In preparing the final rule the Federal Reserve used consumer testing to produce reduced and improved credit card disclosures that it believed consumers will be more likely to pay attention to, understand, and use in their decisions, while at the same time not creating undue burdens for creditors. To conduct the testing, the Federal Reserve retained a research and consulting firm that specializes in designing and testing documents for consumer testing. Ultimately, several tests were conducted in several cities with consumer testing groups consisting of participants with a range of ethnicities, ages, education levels, and credit card behaviors.

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

Federal Reserve believes that the final rule will have a significant economic impact on a substantial number of small entities, and therefore prepared a regulatory flexibility analysis. Because the open-end (not home-secured) credit provisions apply to individuals and organizations that extend even small amounts of consumer credit, the total number of small entities likely to be affected by the proposal is unknown. However based on call report data, Federal Reserve noted that there are approximately 709 banks, 3,397 insured credit unions, and 27 thrift institutions with credit card assets (or securitizations) and total assets of \$175 million or less. While it cannot determine the number of small non-depository institutions that are subject to the provisions, recent congressional testimony by an industry trade group indicated that 200 retailers, 40 oil companies, and 40 third-party private label credit card issuers of various sizes also issue credit cards.

In the final rule, Federal Reserve sought to balance the benefits to consumers arising out of more effective TILA disclosures against the additional burdens on creditors and other entities subject to TILA, and to avoid imposing additional regulatory requirements without evidence that the proposed revisions may be beneficial to consumer understanding of open-end credit products. Federal Reserve included a number of modifications designed to increase flexibility and thus reduce costs to creditors in the final rule. For example, small depository institutions with assets of

\$250 million or less are given an additional 2 years before being required to maintain their own toll-free telephone number to provide minimum repayment estimates. In addition, under the final rule, creditors are no longer required to provide the periodic APR on the periodic statement. Finally, Federal Reserve believes that having the effective date as July 1, 2010, will decrease costs for small entities by providing them with sufficient time to come into compliance with the final rule's requirements.

(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.

Federal Reserve published an advanced notice of proposed rulemaking (ANPR) on December 8, 2004, indicating its intent to conduct a review of Regulation Z in stages, focusing first on the rules for open-end (revolving) credit accounts that are not home-secured, chiefly general-purpose credit cards and retailer credit card plans. 69 Fed. Reg. 70,925. On October 17, 2005, Federal Reserve published a second ANPR to solicit comment on implementing the amendments to TILA made by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which deal principally with open-end credit accounts and require new disclosures on periodic statements, on credit card applications and solicitations, and in advertisements. 70 Fed. Reg. 60,235.

Federal Reserve published a proposed rule amending Regulation Z's rules for open-end plans that are not home-secured on June 14, 2007. 72 Fed. Reg. 32,948. Federal Reserve received over 2,500 comments on the proposed rule. On May 19, 2008, Federal Reserve published a revised proposed rule, with revisions based on comments received from the earlier proposed rule and from consumer testing it had conducted. Federal Reserve received over 450 comments on the revised proposed rule. Federal Reserve responded to the comments in the final rule. 74 Fed. Reg. 5244.

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

The collection of information requirements in this final rule were approved by OMB and assigned OMB Control Number 7100-0199. The information collection is required to provide benefits for consumers and is mandatory for creditors and other entities subject to Regulation Z.

Federal Reserve estimates that the final rule will increase the annual burden on all Federal Reserve-regulated institutions deemed to be respondents by 109,760 hours, from 578,847 to 688,607. Regulation Z also governs institutions over which other federal financial agencies have administrative enforcement authority. Those agencies may, but are not required to, use Federal Reserve's burden estimation methodology. Using its own methodology, Federal Reserve estimates that the total annual burden for all financial institutions subject to Regulation Z, including Federal Reserve-supervised institutions, will increase by 1,926,373, from 11,671,107 to 12,597,390.

Statutory authorization for the rule

The final rule is authorized by the Truth in Lending Act (TILA), (Pub. L. 90-321, May 29, 1968, 82 Stat. 146) 15 U.S.C. §§ 1601 et. seq.

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.