

November 20, 2009

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

Re: Regulation Z; Docket No. R-1370

Dear Ms. Johnson:

The National Foundation for Credit Counseling (the “NFCC”) would like to thank you for the opportunity to comment on the proposed rule, Regulation Z, Docket No. R-1370 published in the Federal Register on October 21, 2009 (the “Proposed Rule”).

Founded in 1951, the NFCC promotes the national agenda for financially responsible behavior and builds capacity for its members to deliver the highest quality financial education and counseling services. The NFCC is the nation’s largest and longest serving national nonprofit credit counseling network, with more than 100 member agencies and nearly 850 offices in communities throughout the country. Each year, NFCC members assist more than 3.2 million consumers, helping many to drive down their debt and take control of their finances.

For many years, the NFCC has worked closely with financial institutions to help consumers become more financially responsible. As a result, the NFCC is uniquely positioned to assist creditors with fulfilling the toll-free telephone number requirement (the “Toll-Free Number Requirement”) of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (the “Credit Card Act”). To meet the requirements established by the Federal Reserve Board’s Proposed Rule implementing the Toll-Free Number Requirement, the NFCC is enhancing its current toll-free telephone locator system to allow creditors to make available to consumers a broad range of resources.

While the NFCC vigorously supports Congress’ and the Federal Reserve Board’s work in protecting consumers, we believe the Proposed Rule should be improved to allow consumers to access a wider range of credit counseling referrals. Such access could be achieved by modifying the rule, as more particularly described below, in a way that would make the Toll-Free Number Requirement less costly to administer and would also provide the consumer with a broader range of choices. The cost efficiency detailed herein in Sections I and II would allow more nonprofit organizations, such as the NFCC –

whose goals include helping consumers become more financially responsible - to assist credit card companies in satisfying the Toll-Free Number Requirement. And the proposal to increase consumer choice set forth in Section III would further the Federal Reserve Board's goal of providing each consumer with sufficient options to choose an agency best suited to his/her needs.

I. The Federal Reserve Board should allow creditors to refer the consumer to the U.S. Trustee's Web site for further referrals in satisfaction of the Other Languages Requirement.

As you know, § 226.7(b)(12)(iv)(B) of the Proposed Rule requires that, upon the request of the consumer, and to the extent available from the United States Trustee or a bankruptcy administrator, the card issuer must provide the consumer with the name, street address, telephone number and Web site address for at least one organization that provides credit counseling services in a language other than English that is specified by the consumer (the "Other Languages Requirement"). In explaining this requirement, the commentary to the Proposed Rule states that the United States Trustee collects the name, street address, telephone number and Web site address for approved organizations (i) by State and (ii) by language in which the organization can provide credit counseling services, and provides that information to the public through its Web site. In addition, the Federal Reserve Board states that, in jurisdictions where credit counseling organizations are approved by a bankruptcy administrator pursuant to 11 U.S.C. 111(a)(1), a card issuer can easily obtain this information from the relevant administrator.

Given the large number of languages available on the United States Trustees' Web site and through local bankruptcy administrators, it is our view that the Other Languages Requirement would be best satisfied by requiring that English and Spanish be available through the Toll-Free Number, while callers preferring additional languages should be referred to the Trustee's Web site or another Web site for credit counseling information. Otherwise, it would be difficult to satisfy the Other Languages Requirement without a live operator, which would make satisfaction of the Toll-Free Number Requirement extremely expensive and inefficient. Similarly, tailoring an automated system to provide options for multiple languages would be very cumbersome for callers to the Toll-Free Number. We believe the changes proposed below would greatly benefit consumers' access to a broad range of credit counsel referrals by allowing non-profit organizations to participate in the referral process.

The NFCC believes that referring consumers to the U.S. Trustee's Web site for further referrals in satisfaction of the Other Languages Requirement would allow consumers to receive the specialized information they need while making it more cost effective for non-profit organizations to participate in the referral process. Non-profit organizations, such as the NFCC, would be able to assist the large number of consumers through cost-effective automated phone systems, and consumers requiring referrals to agencies that

speak languages other than English and Spanish would be able to access this information on the U.S. Trustee's Web site or through the local bankruptcy administrator.

Our recommended changes to the language of the Proposed Rule § 226.7(b)(12)(iv)(B) are as follows:

A card issuer must provide the following information about credit counseling services through the toll-free telephone number disclosed pursuant to paragraphs (b)(12)(i) or (b)(12)(ii) of this section:

(B) Upon the request of the consumer and to the extent available from the United States Trustee, ~~or a bankruptcy administrator, the name, street address, telephone number and the~~ Web site address for the United States Trustee where the consumer may locate at least one organization that satisfies the requirements in paragraph (b)(12)(iv)(A) of this section and provides credit counseling services in a language other than English as specified by the consumer.

II. The Federal Reserve Board should allow creditors to provide separate toll-free numbers in satisfying the Toll-Free Number Requirement: one for English- and Spanish- speaking referrals and another for other languages.

This revision to the Proposed Rule would allow creditors to provide consumers with one toll-free number for English- and Spanish-speaking referrals and another toll-free number to satisfy the Other Languages Requirement. This bifurcation would be less expensive to administer because the obligations for fulfilling the Toll-Free Number Requirement could be split between (i) non-profit organizations that have pre-existing automated toll-free numbers for English- and Spanish-speaking referrals and (ii) live operators, such as the creditors' current operators, with access to referrals in satisfaction of the Other Languages Requirement. (According to the U.S. Census Bureau's most recent census, of 262 million Americans aged 5 years and over, approximately 215 million speak only English at home. Of the approximately 21 million who speak English "less than very well," 13.7 million speak Spanish at home).

Our recommended changes to the language of the Proposed Rule § 226.7(b)(12)(iv)(B) are as follows:

A card issuer must provide the following information about credit counseling services through the toll-free telephone number or numbers disclosed pursuant to paragraphs (b)(12)(i) or (b)(12)(ii) of this section:

Our recommended changes to the requirements set forth in Proposed Rule § 226.7(b)(12)(i)(E) are as follows:

(E) A toll-free telephone number or numbers where the consumer may obtain from the card issuer information about credit counseling services consistent with

paragraph (b)(12)(iv) of this section (the card issuer may provide more than one toll-free number to consumers – one for English- and Spanish-speaking referrals and another for referrals for other languages)

III. The Federal Reserve Board should require that one of the three organizations that consumers are referred to under § 226.7(b)(12)(iv)(A) of the Proposed Rule be a local credit counseling agency.

As you know, § 226.7(b)(12)(iv)(A) of the Proposed Rule requires that a card issuer provide through the toll-free number the name, street address, telephone number, and Web site address for at least three organizations that have been approved by the United States Trustee or a bankruptcy administrator pursuant to U.S.C. 111(a)(1) to provide credit counseling services in the State in which the billing address for the account is located or the State specified by the consumer. The Federal Reserve Board acknowledges in the Proposed Rule that, because “different credit counseling organizations may provide different services and charge different fees, the Board believes that providing information regarding at least three approved organizations will enable consumers to make a choice about the organization that best suits their need.” *See Truth in Lending*, 74 Fed. Reg. 54142 (October 21, 2009). The NFCC believes that expanding these requirements further to require that at least one of the three referrals be a local agency will help the Federal Reserve Board achieve its goal of increasing the range of choices available to consumers.

Furthermore, existing guidance from another federal agency is instructive on this issue. The U.S. Department of Housing and Urban Development (“HUD”) already requires that lenders provide contact information for at least nine counseling agencies, ***one of which must be local***, to seniors seeking to obtain a Home Equity Conversion Mortgage (HECM). As stated in HUD Mortgagee Letter 2009-47: “Lenders are required to give every client a list of HECM counseling providers that includes no fewer than nine HUD-approved counseling agencies, with

- five agencies in the local area and/or state of the prospective borrower
- at least one of the local agencies located within a reasonable driving distance for the purpose of face-to-face counseling, and
- the four national intermediaries that provide telephone counseling
 - National Foundation for Credit Counseling (NFCC)
 - Money Management International (MMI)
 - National Counsel on Aging (NCOA)
 - Consumer Credit Counseling Service of Atlanta (CCCS of Atlanta).”

The NFCC thanks you again for the opportunity to comment on the Proposed Rule. The NFCC believes that, unless the Federal Reserve Board changes the Other Languages Requirement to make it more cost-effective to satisfy, non-profit organizations will have to spend an unduly burdensome amount of money to provide a complete solution to consumers in satisfaction of the Toll-Free Number Requirement. Without non-profit organizations providing these services, the consumer will not receive a wide range of referrals. Furthermore, the NFCC believes that requiring that one of the three referrals under the Proposed Rule be a local agency will further the intent of the Proposed Rule by providing the consumer with a great variety of choices.