CUNA
Credit Union National Association
cuna.org
Daniel A. Mica
President & CEO
601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | Phone: 202-638-5777 | Fax: 202-638-7734

October 7, 2009

The Honorable Barney Frank
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus:

On behalf of the Credit Union National Association (CUNA), I am writing regarding a specific issue that credit unions are experiencing with respect to the recently-enacted Credit Card Accountability, Responsibility and Disclosure (CARD) Act. CUNA is the nation's largest credit union advocacy organization, representing approximately 90% of America's 8,000 state and federal credit unions and their 92 million members.

Credit unions are currently reeling from an unintended consequence of the CARD Act. Section 106 of the CARD Act prohibits creditors from treating payments as being late unless the creditor adopts reasonable procedures to ensure that periodic statements are mailed or delivered to the consumer no later than 21 days before the payment due date. We believe this provision was intended to cover only credit card accounts; however, the provision, as enacted, applies to all open-end loans, including general lines of credit, lines of credit associated with share draft and checking accounts, signature loans, and home equity lines of credit (HELOCs) as well as multi-featured, open-end lending programs.[1]

Consolidated Billing May Cease, Increasing Costs for Credit Unions Members
Most credit unions provide monthly consolidated membership statements that combine information on a member's savings, checking, and loan accounts, other than for credit cards. Since these statements may include a number of open-end credit plans with different due dates, changing these due dates to comply with the 21-day requirement may lead credit unions to discontinue the use of consolidated statements or send statements for each loan in addition to the consolidated one.

The alternative is to send separate statements for each loan. This will greatly increase both processing and mailing costs (in addition to the environmental impact), which credit unions have estimated will be $1 - $2.25 per month per loan. Notwithstanding the additional costs, we are also very concerned that some credit unions currently do not have the capacity to print and mail these increased number of statements in order to meet the rule's timing requirements. Not only will credit unions need to pass on these costs to their members in the form of higher loan rates, lower deposit rates, or higher fees elsewhere, but credit union members will be very confused and concerned when they receive multiple statements from their credit union, depending on how many loans they have outstanding. Credit union relationships with their members will suffer, all in an effort to comply with an unintended application of a law that is intended to benefit consumers.

[1] Under these plans, which have been allowed by the Federal Reserve Board for over a quarter of a century, a credit union member has one account with the credit union with a number of features, or sub-accounts, that are available to the member. This arrangement allows the member to access a variety of different types of open-end credit under a single plan, including loans for automobiles and other vehicles. Currently, almost half of the nation's credit unions—about 3,500—use these open-end programs.

Credit Union Members May No Longer Be Able to Choose Their Payment Date
For certain loans, particularly vehicle loans, credit union members are often permitted to choose the due date to best suit their financial needs; for example, members may choose due dates that coincide with pay days or to avoid other payment due dates. This practice will have to be discontinued if the member-chosen date no longer complies with the new 21-day requirement. Changing the express choice by members would not be consumer-friendly, and members will not understand that a Federal law requires this action.

Additionally, many credit unions provide their members with the convenience of automated payments, in which payments are automatically withdrawn from the credit union account on a certain date. Again, this may often be chosen by the member, who may choose a date that is related to when he or she receives a paycheck. This may now need to be changed based on the new 21-day requirement, imposing hardship and inconvenience if the new date no longer coincides with the receipt of a paycheck.

Bi-Weekly Payments Are No Longer Permitted
Many loans are structured so that payments are made bi-weekly, which serve to minimize the amount of interest that is charged, as compared to loans in which payments are made monthly. These loans are often repaid through payroll deduction. If bi-weekly programs are no longer permitted under the new 21-day requirement, the result will be that these members will pay additional interest and may no longer have the benefit and convenience of payroll deduction.

HELOC Terms and Conditions Must Be Changed
The 21-day requirement will also apply to HELOCs, the terms of which cannot be easily changed. Regulation Z lists exceptions for changing terms of HELOCs and although the Regulation Z commentary permits changing the due date, we note that the due date is often a contractual term, which adds to the difficulty of complying with these new requirements.

A Technical Correction is Necessary and Appropriate

To address these concerns, Representative Peter Welch (D-VT) has introduced legislation, H.R. 3606, the CARD Act Technical Corrections Act. This legislation very simply inserts the words, “a credit card account under” to Section 106 of the CARD Act. These words were included in the House-passed version of the CARD Act, and we believe the effect of their omission in the enacted version of the legislation was unintended. We hope the Committee will agree that a technical correction is appropriate and will support passage of technical corrections legislation as quickly as possibly.

On behalf of America’s credit unions, thank you very much for your consideration.

Sincerely,

Daniel A. Mica
President & CEO