The Board of Governors of the Federal Reserve System ("Board"), the Office of Thrift Supervision and the National Credit Union Administration (collectively, the “Agencies”) have adopted final versions of the Unfair or Deceptive Acts or Practices (“UDAP”) Proposals (“Proposals”) that they issued in May of this year. In addition, the Board has adopted a final version of the changes in Regulation Z with respect to credit cards that it proposed in June of 2007. Although the Agencies have not adopted the provisions of the UDAP Proposals that would have addressed overdraft practices, the Board has proposed changes in Regulation E, Electronic Fund Transfers, to address overdraft practices. The scope of the changes is almost unprecedented and they will require additional analysis, but the key provisions of the final and new proposed rules are described below.

**UDAP**

The Agencies had proposed seven credit card rules under their UDAP authority addressing time to pay, payment allocations, rate increases on outstanding balances, credit holds, balance computation methods, security deposits and fees, and firm offers of credit. The Agencies did not act on the credit hold and firm offer of credit provisions at this time.

**Time to Pay**

The Agencies adopted the Proposal that effectively required credit card statements to be mailed twenty-one days before any penalty fee or penalty rate is applied for late payment, essentially as proposed. The Commentary clarifies that providing less than twenty-one days where electronic statements are provided and electronic payments are accepted may not be unfair. In addition, the rule makes clear that the 21-day provision does not apply to the interest free period (grace period).

**Payment Allocations**

The Agencies adopted a modified version of the payment allocation Proposal. Under the final version, payments in excess of the minimum payment must be allocated high to low, or pro rata based on the balances. The equal portion allocation method and the special protection for promotional balances in the Proposal were not adopted.

**Rate Increases**

The Agencies expanded the original Proposal limiting rate increases on outstanding balances to also apply to new balances subject to the following five exceptions:

- a specific, non-contingent rate increase that was included in the account opening disclosures as becoming effective after a specified period of time;
- a variable rate based on an independent public index;
- an increase for future transactions based on the 45-day advance notice that is provided under Regulation Z after the end of the first year;
• an increase because the required minimum payment is at least thirty days late; and
• an increase due to a failure to comply with a workout agreement.

In effect, unless one of the other exceptions applies, the APR cannot increase for the first year the account is opened.

The Commentary clarifies that this provision also prevents current deferred interest promotions.

Balance Computation Methods

The Agencies adopted the prohibition against double-cycle billing in the Proposal with some clarifying changes to the language, including removing the language that permitted deferred interest.

Security Deposits and Fees

The Agencies adopted the prohibition against charging security deposits and fees for the issuance or availability of credit that constitute a majority of the credit limit to an account in the first year. Only twenty-five percent of the credit limit may be charged in the first billing cycle and the remaining amount may be charged over the next five billing cycles, instead of the next eleven billing cycles as the Proposal would have required.

Regulation Z

The Board adopted the Regulation Z proposal in substantially the form proposed albeit with numerous technical changes. For example, the Board has provided some new flexibility in the formatting requirements for periodic statements. Significantly the 45-day advance notice for rate changes is retained in the final rule.

Overdrafts

The Board also issued a new proposal to address overdrafts in debit card transactions through amendments to Regulation E and adopted final amendments to Regulation DD establishing additional disclosure requirements for overdraft fees.