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

Re: Docket No. R-1286

Dear Ms. Johnson:

This comment letter is submitted on behalf of GE Money Bank ("GEMB") in response to the proposed rule published by the Board of Governors of the Federal Reserve System ("Board") to revise certain open-end credit provisions of Regulation Z ("Proposal"). GEMB is a federal savings bank located in Utah. As a major private label credit card issuer, GEMB partners with over 100 retail brands to provide consumers with over 100 million private label and co-brand credit card accounts. The availability of store credit, including credit provided by GEMB as part of its private label and co-brand programs, is a critical driver of the economy because it provides increased purchasing power to consumers. Consumers also have special affinity with our retail partners and receive valuable discounts and promotions in connection with the use of private label and co-brand cards. GEMB appreciates the opportunity to provide the Board with its comments on the Proposal, and we believe that given our retail-focused business, we are uniquely situated to provide a perspective on many of the Board's proposals.

I. Summary

GEMB believes the Proposal is generally a thoughtful and well reasoned approach toward improving federally mandated credit card disclosures. We believe the Proposal represents needed modernization of Regulation Z. Although we offer comments on how the Proposal could be refined, we generally support the Board's approach in the Proposal.

We do not intend to comment on many of the items in the Proposal, even though they may have a significant impact on the industry as a whole. On these broader issues, we expect the Board will receive comments of a broader scope from trade associations and others. Our letter focuses instead on those issues of particularly critical importance to GEMB, many of which relate to the complexity of providing credit at retailer points-of-sale. The overall points we would like to make are the following:

- GEMB supports the Board's approach to electronic disclosures, although we believe a requirement relating to the provision of § 226.5a disclosures should be revised.
- If required, the disclosure of the applicable APR in the account-opening table would be operationally difficult to administer—especially in the retail point-of-sale environment. A card issuer should continue to be permitted to disclose the applicable APR in writing clearly and conspicuously with the § 226.6 disclosures.
- We believe it is important for card issuers to provide the periodic disclosures under § 226.7 without strict formatting requirements.

GE Money Bank
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- The Board correctly determines that the "effective APR" disclosures are not useful to consumers. Such disclosures should therefore not be required.

- The proposed "year-to-date" cost disclosures on periodic statements require significant effort to create and implement and may not provide corresponding significant benefits to consumers.

- The Board should not recommend statutory changes to the longstanding 14-day rule pertaining to certain periodic statements, especially given the growth in receipt and payment of bills online.

- We believe the Board should explore options relating to the proposed 45-day timeframe associated with changes in terms that may be more operationally feasible and less costly for cardholders generally.

- We do not believe that issuers should be precluded from taking timely risk-mitigation measures when a consumer defaults on an agreement with a creditor. To the extent the Board retains its 45-day waiting period for such actions, we have suggestions for how to mitigate the unintended consequences of such a rule.

- The Board should allow the same flexibility to issuers of retail cards that it allows to issuers of general purpose cards in giving the minimum payment disclosures.

- The Board should not require additional disclosures involving the purchase of specific goods or services with an open-end credit account.

- The Board should consider simplifying certain "triggered term" advertising disclosures to make them less cumbersome for retailers and consumers.

- We support the Board's proposal for opening accounts by telephone in connection with merchant purchase transactions but would ask for a clarification the rule apply equally to credit grantors other than merchants who offer credit programs for the merchants.

- We believe the definition of "open-end credit" should not be changed.

II. Electronic Disclosures

The Proposal includes provisions relating to the electronic delivery of certain disclosures. With one suggested exception, GEMB supports these portions of the Proposal and we ask the Board to retain them in a final rule.

The one area we would ask the Board to reconsider is the requirement that issuers provide the application and solicitation disclosure table "in a manner that prevents the consumer from by-passing the disclosures before submitting the application or reply form" if such disclosures are not provided automatically or on the same web page as the application or solicitation (Comment 5a(a)(2)(1)(ii)(C)). We do not believe such a requirement is necessary or consistent with the requirements for paper disclosures and

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believe that it will detract from the overall customer experience. The regulatory requirement is only that the disclosure be provided "on or with" the solicitation or application. A link to such disclosures would appear to satisfy the requirement that the disclosures be provided "with" the solicitation or application. Furthermore, we believe an issuer should be permitted to post a clear and conspicuous link to the application and solicitation disclosures in a manner similar to which an issuer can provide a reference to the location of the disclosures in a paper application. For example, the Board states that an issuer can disclose the table in paper application and solicitation materials "if the application or solicitation reply form contains a clear and conspicuous reference to the location of the disclosures and indicates that they contain rate, fee, and other cost information, as applicable." We believe a similar standard would be equally appropriate in an electronic environment.[1] Moreover, customers who use the Internet are accustomed to having information organized in a manner that is offered rather than forced. Links are used to provide customers with easy access to information in a clear, well-organized fashion. We believe that requiring the customer to scroll through disclosures they are not interested in reading will be viewed as annoying and low-tech by many consumers and will not provide any more meaningful benefits than prominent links to the disclosures.

III. Disclosure of APR in Account-Opening Table

The Proposal includes provisions creating an account-opening table to be provided pursuant to § 226.6. We concur with the Board that the initial disclosures required by Regulation Z could be improved, and we believe the account-opening table is a reasonable approach. There is one provision of the proposal that seems to create a significant issue for point-of-sale credit—specifically, the requirement in Comment 6(b)(4)(1) (iii) to disclose in the table the specific rate for each feature if the creditor disclosed at time of application or solicitation a number of rates that might apply after the creditor has determined the consumer's creditworthiness. This requirement, which appears to preclude the use of an integrated document to disclose the specific rate, coupled with the omission of a comment that would allow creditors to use an insert to show current variable rates (as is permitted today by Comment 6(a)(2)(3)), could impose significant and unnecessary costs on card issuers, especially those like GEMB that provide millions of consumers with private-label or co-branded general purpose credit card accounts.

The proposal to include the specific and current APR in the Schumer box section of the account-opening disclosures creates complexity in many acquisition channels, but the administrative burdens and reliability issues are compounded significantly in the context of accounts opened at the point of sale. GEMB has taken significant steps to minimize the complexity of its regulatory compliance program at the point of sale. We believe we have developed compliance programs that are simple enough to ensure that store employees have minimal difficulties while still providing consumers with important information in an efficient and compliant manner. For variable rate programs, the printed disclosures are accurate when printed but may be outdated when given. In this case, we provide the updated APR to customers by various means integrated with the specific retail partner's point of sale system, such as by using the register to print the APR on a separate document or on a temporary shopping pass. In some cases, we offer several pricing tiers, all of which are disclosed in the Schumer box. Once the customer applies for credit, we evaluate his or her application and assign an APR to the customer's account. We communicate the customer's specific

[1] The Board provides this flexibility for electronic disclosures, but only if the table appears on the same web page as the application or solicitation, without requiring the disclosures to appear on the initial screen. We do not believe there is a material distinction between a link that takes a consumer to a different web page and one that takes a consumer to a different part of the same web page.

GE Money Bank
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rate via one of the means described above and include that communication with the other account-opening disclosures as part of an integrated document for purposes of compliance with § 226.6. We have found that providing disclosures in this manner minimizes the difficulty and complexity for store employees while still providing consumers with disclosures in a clear and conspicuous manner. Changing the rules to provide that the specific and current APR disclosure be provided in the account-opening Schumer box, and not allow such disclosures to accompany the account-opening Schumer box, would be extremely burdensome for issuers and for retail stores across the country and would likely prevent this important disclosure from being given systematically in real-time.

If we had to provide our retail partners with a variety of account-opening tables, rely on the store management to ensure a sufficient updated supply of each type of account-opening table at all points of sale (or other locations where the account may be opened) at all times, and expect the employee at the point of sale to provide the correct account-opening table, we would need to redesign our compliance program for dozens of retail partners and incur significant costs to ensure compliance with the new requirement. Such an operation becomes extremely difficult if the APRs on variable rate accounts must be accurate within 30 days of providing them to consumers, as it takes time to print and distribute the required disclosures to our retail partners. Moreover, requiring such an operation would likely result in more instances of consumers getting incorrect or outdated terms. We do not think these compliance costs and burdens are necessary or appropriate since we can provide consumers with the relevant, up-to-the-minute APR information in an effective manner without pre-printing the APR in a table.

We ask the Board to revise the Proposal to allow a card issuer the option of disclosing in the account-opening table the location of the specific and current APR for the account (for example, on a card carrier or other document provided to the consumer at the time the account disclosures are provided). This approach will ensure that consumers receive the information they need without imposing unnecessary costs and compliance burdens on card issuers.

IV. Periodic Statement Disclosures

A. Formatting

The Proposal includes significant new formatting and content requirements for the periodic statement disclosures. We have not experienced significant complaints regarding periodic statements provided to consumers. To the contrary, we believe that card issuers, including GEMB, take great care to design periodic statements that are easy for consumers to read and understand. We use our periodic statement as an opportunity to communicate a variety of important information to our consumers—foremost of which is their transaction information—and we strive to ensure that our periodic statement communicates such information efficiently and effectively. Although some of the proposed requirements may not significantly impact the overall presentation of periodic statements, such as those requiring like types of transactions to be grouped in a specific manner, many of the requirements would impose a "one size fits all" approach to a consumer communication that is and should remain inherently unique to each issuer and credit program.

GEMB is concerned that the Proposal would result in overly rigid and prescriptive formatting requirements that are not necessary to inform consumers of key information in a consumer-friendly manner. We believe that the requirements may inadvertently result in less effective periodic statements for

GE Money Bank
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consumers by eliminating issuers' discretion to format periodic statements to meet issuers' and consumers' specific needs and desires. We also ask the Board to consider the significant costs that issuers would incur if they were required to completely redesign periodic statements and provide them in a manner that does not optimize their layout.

B. Year-to-Date Cost Disclosures

As an example of significant costs that the Proposal could impose on issuers, we note that the proposed "year-to-date" cost disclosures on periodic statements would require significant effort to create and implement. We have investigated what would be necessary for us to create such a disclosure. First, we would need to create new fields in our system to accumulate the amount of interest and the amount of fees from January of each year forward. Second, we would need to create fields in our periodic statement to display these disclosures. Third, we would need to link the system field containing the information to the field on the statement. This is not a trivial or simple task from a technological perspective and will require significant design and testing.[2] We do not believe any consumer benefits resulting from this disclosure outweigh these significant costs. Consumers receive regular disclosures about the costs they pay for credit in the form of periodic statements, among other disclosures. Since there is no lack of cost information provided to consumers, it is not clear to us whether any incremental benefit of the year-to-date disclosure is sufficient to justify its significant cost.

C. Effective APR

GEMB commends the Board, however, for considering the elimination of the "effective APR" disclosure. We strongly urge the Board to delete this disclosure requirement in Regulation Z. In the Supplementary Information the Board has provided a very worthwhile explanation of why the "effective APR" is a counterproductive disclosure. TILA and Regulation Z are designed to ensure that consumers receive accurate disclosures of clear information that can be used to explain the cost of credit and to compare the cost of similar products. The effective APR disclosure is the antithesis of these objectives. Since the effective APR does not reflect the annual rate of interest, it confuses consumers. We field many calls from confused consumers wanting to know what the effective APR is, why it is different from their "normal" APR, and what the disclosure is supposed to mean. GEMB submits that the effective APR does not provide the consumer with any useful information about the cost of their account, how it compares with other accounts, or how they should handle the account in the future. The disclosure should be eliminated.

V. Timeframe for Mailing Periodic Disclosures

The Board asks whether it should recommend to Congress a change in TILA regarding the requirement that an issuer send a periodic statement to a consumer no later than 14 days prior to the expiration of any applicable grace period on the account.[3] We do not believe such a recommendation is

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[2] If this provision is retained in the final rule, we ask the effective date for this provision be effective as of the beginning of a calendar year, but only after sufficient time is provided to build and test the fields. It will not only take time to create the disclosure, but it would be difficult to implement in the middle of a calendar year.

[3] Regulation Z also requires the periodic statement to be sent at least 14 days before certain other charges may be assessed, such as a late payment fee.

GE Money Bank
4246 South Riverboat Road
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Salt Lake City, UT 84123-2551

necessary. We believe that a minimum requirement of 14 days is generally sufficient, and GEMB is not aware of widespread problems with consumers not having enough time to make a timely payment. Furthermore, we believe that consumers have increasingly more efficient options for purposes of receiving and paying their credit card bills, such as through creditors' web sites or through use of bill payment services. A consumer can literally view and pay his or her bill in a matter of minutes every month if he or she so chooses. Especially with these technological advances making receiving and paying bills faster and easier, it seems unnecessary to revisit the rule that has been in effect for over 30 years. In fact, on our credit programs where we have paperless bills, we expect paperless bill enrollments to double this year and next. On one of our credit programs where online billing and payment is most popular with our customers, 22% of our customers have opted for paperless (online) bills and more than 50% make payments online.

VI. Changes in Terms

The Board proposes to make significant changes to the requirements pertaining to changes in terms. For example, the Board would require a card issuer to provide a 45-day notice prior to changing certain terms (including those relating to late payment fees and over-limit fees). The Proposal also includes specific formatting requirements for change-in-terms notices ("CIT notices"), including those that may be provided on a billing statement. (Although the Board proposes similar changes for penalty pricing, we discuss penalty pricing separately below.)

Before commenting on the Proposal's change-in-terms provisions, GEMB believes it is important to discuss the need for an issuer to change terms and how such flexibility benefits all consumers. A credit card is open-end credit—it is underwritten at one point in time, but consumers can generally access the credit line at any point in the future so long as the account remains open. Unlike secured credit, a credit card issuer has no collateral or other protection against consumer default. Because a credit card lender lacks this security, it must have the flexibility to adjust the terms of an account if a consumer's account risk deteriorates or other circumstances change.

A. 45-Day Notice

The Board intends to require an issuer to provide a 45-day notice before changing terms. However, a regulatory requirement to provide a 45-day notice could actually result in a waiting period for an issuer that spans almost three billing cycles. We have two thoughts relating to the Board's proposal—one concerning the effective date of the change and the second suggesting reasonable exceptions to the timing requirement.

As we understand it, the point of extending the CIT notice period to 45 days is to give the customer additional time to find alternative credit sources. An assumption has been made that the notice period and the opt out period necessarily correspond, but this is not necessarily the case.

- For instance, assume under the proposal that a customer is sent a bill including a change in terms notice on January 1. The customer's next bill will be sent February 1. Under the 45 day rule, the customer's notice and opt out period would expire on February 15. If the customer does not opt out by this time, it is likely that the creditor would have to implement the change in terms on April 1, to relate back to the March 1-30 billing cycle (to avoid having changed a term before the effective date of the change).

GE Money Bank
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- However, it would be preferable and within the sprit of the Board's proposal for the creditor to still provide a 45 day opt out but implement the revised terms effective at the beginning of the cycle in which the 45th day falls (February 1 in our example). This is because the calculations for the period from February 1-February 28 would be performed when the account next bills, on March 1 and the creditor would know by then whether the customer had opted out.

- Accordingly, we recommend that to the extent the 45 day notice period is retained, it be revised to decouple the opt out period from the notice period and to allow the creditor in the above example to implement the change on March 1 if the customer had not opted out, with the change relating back to February 1. Under our proposed solution the regulation would allow an issuer to effectuate a change in terms at the beginning of a billing cycle in which the 45th day falls if the consumer does not opt out of the change.

Additionally, if the Board does decide to adopt a 45-day notice period, we believe there should be reasonable exceptions. The notice period should not be necessary if the change does not apply to an existing balance or is prospective in nature. Two examples illustrate this point:

- First, if there is a change in terms to an APR that would not affect an existing balance, the 45-day notification should not apply. The consumer does not necessarily need the notice to attempt to transfer a balance to avoid the effect of the change. In fact, the consumer can simply stop using the card or cancel the card to avoid the change.

- The same can be said for a change in a late payment fee or over-limit fee. These are changes that are not "automatic" and would not affect the consumer but for subsequent choices made by the consumer about when and how much to charge and/or pay. Such prospective changes should not require a 45-day notification requirement.

B. CIT Placement

Aside from the CIT notice requirement timeframe, GEMB also asks the Board to reconsider its placement requirements that the CITs be embedded in the front page of the billing statement. We do not believe it is necessary to require the CIT notice to appear on the front page of a billing statement, though we would agree it is reasonable to require the billing statement to include a prominent statement message alerting the customer that a CIT notice is inserted into the billing statement in any month in which such a notice is inserted. If the Board were to adopt such an approach, consumers would receive prominent notification of a change in terms, but not necessarily in the cumbersome manner described in the Proposal.

VII. Penalty Pricing

Many card issuers, including GEMB, reserve the right to impose penalty rates on consumers if they engage in specific behaviors that indicate an increased credit risk, such as late payment. Such a practice allows card issuers to modify the pricing of an account in specific, and predisclosed, ways to mitigate the risks presented by a cardholder. The need to reserve these specific rights in order to offer lower credit prices to consumers is important for the same reasons described above pertaining to an issuer's ability to make changes in terms. The significant difference between a change in terms and penalty pricing arrangements, however, is the fact that the penalty pricing terms are disclosed to the consumer up front and

GE Money Bank
4246 South Riverboat Road
Suite 200
Salt Lake City, UT 84123-2551

are part of the account agreement. The consumer's agreement to use the account includes the agreement to the increased pricing if he or she engages in certain behavior.

A. 45-Day Notice

The Board proposes to treat penalty pricing essentially the same as a change in terms for purposes of Regulation Z disclosure requirements except that the penalty pricing provisions must also be disclosed under §§ 226.5a and 226.6. Specifically, the Proposal would require a card issuer to provide a consumer with at least a 45-day notice before implementing penalty pricing provisions in the account agreement. We do not believe this is necessary or appropriate. Furthermore, and unlike a change in terms, the penalty pricing provisions are part of the account agreement. *The consumer has already received notice of these terms and agreed to such terms.* GEMB does not believe it is necessary to provide additional notice before implementing this portion of the contract with the consumer.

If the Board retains the 45-day notice requirement, we have some suggestions for the Board to consider. First, we do not believe that the 45-day requirement should apply to the change in rate following expiration of, or a consumer's disqualification for, a promotional APR. By way of background, it is very common for the terms of a promotion, which are disclosed to the customer in connection with the advertising of the promotion, to include a re-pricing provision if the customer does not pay any required minimum payment when due. In such a case, the promotion ends early. The balance is no longer subject to special treatment (e.g., 0% interest) and would become subject to the rate otherwise applicable on the account (whether it be the standard rate, penalty rate or some other rate). We believe clarifying that the 45 day notice period does not apply to changes in a promotional rate which result from termination or expiration of the promotion is necessary to preserve the ability for issuers to offer consumers popular promotional APRs in the future. We fear that we may not be able to offer attractive and popular promotional APRs to consumers if we do not have the ability to make prompt adjustments in the face of more risky consumer behaviors.

B. Timing for Notice

Further, we believe that an issuer should be permitted to provide any required notice upon the first "trigger" of penalty pricing, even if the issuer does not necessarily reprice after that event. For example, if two late payments would permit the issuer to reprice the account, the issuer should be permitted to provide the penalty pricing notification after the first late payment as opposed to waiting until the second late payment. The 45-day period would begin upon provision of the notice when the first trigger occurs, and the issuer would be permitted to reprice any time after the later of 45 days and the second late payment. We believe this flexibility is necessary in order to allow card issuers to provide more favorable triggers for consumers (e.g., late twice rather than late once).[4] Furthermore, the consumer will be provided sufficient notice to avoid certain actions in the future and to plan accordingly.

VIII. Toll-Free Numbers for Minimum Payments

[4] This flexibility is equally important for an issuer that reserves the right to reprice based on a single default, but as a matter of practice or occasional forbearance does not reprice until a second default.

GE Money Bank
4246 South Riverboat Road
Suite 200
Salt Lake City, UT 84123-2551

The Proposal requires that creditors make certain disclosures on periodic statements regarding the length of time it will take to pay a credit card balance if only the minimum payment is made. Creditors have an option of complying with this requirement by providing a generic message on the periodic statement and directing customers to call a toll-free number for an estimate of the time to repay. These estimates must be based on a minimum payment formula. Issuers of general purpose credit cards may use a common formula for all of their cards, while issuers of retail credit cards will be required to use a separate formula for each of their retailer cards. This distinction seems to be based on an assumption that the terms of retail credit cards differ more than the terms of general purpose cards. We respectfully disagree. In fact, his requirement will impose a severe administrative burden on GEMB, which issues over 100 different retail credit cards. We do not see the need to impose more costly requirements on retail credit cards than those imposed on general purpose credit cards even though the terms of general purpose credit cards may vary as much or more than the terms of retail credit cards. In order to reduce unnecessary costs and administrative burdens, we ask that the proposal be amended to allow issuers of retail credit cards to use a common payment formula for all of their retail credit cards, as is allowed under the proposal for issuers of general purpose cards.

IX. Advertising

A. Disclosures Relating to Purchase of Specific Goods or Services

The Proposal includes a new provision relating to advertising open-end credit. If an advertisement for credit to finance the purchase of specific goods or services states a minimum monthly payment, the advertisement would be required also to state the total of payments and the time period to repay the obligation, assuming that the consumer makes only the minimum payment required for each periodic statement. This additional disclosure would be equally prominent to the statement of the minimum monthly payment.[5]

Monthly payment advertising is useful to responsible consumers on tight budgets. However, information about repayment periods or total of payments on an open end account is inherently more speculative, and may be less useful to consumers. If making monthly payment disclosures is made too cumbersome, some creditors or retailers will stop providing this useful information to consumers who may use it today.

We suggest that the Board not change the triggering terms section to make monthly payment a triggering term. However, if the Board retains this disclosure trigger, we ask that the triggered disclosure be limited to the total repayment period and not the total of payments, which is more dependent on consumer behavior and less likely to be accurate and meaningful.

Additionally, "no payment" advertising should not be covered by the triggering terms provision. As the Board is aware, credit issuers frequently offer promotional terms for specific purchases, such as "no

[5] We note that the Supplementary Information suggests that these disclosures are designed to mitigate issues arising from the advertising of "spurious open-end credit" as described by the Board. This may be a reasonable approach to addressing advertisements for credit that may not fall squarely within the definition of "open-end credit." The proposed disclosure is not limited to such forms of credit, however, and could apply to credit plans that are clearly open-end, such as private label or co-brand credit card accounts.

GE Money Bank
4246 South Riverboat Road
Suite 200
Salt Lake City, UT 84123-2551

payment, no interest" promotions for a particular promotional period. The terms triggered by these disclosures are already too lengthy (as noted below), and customers would not be helped by additional disclosure of the time period or amount of payments to be made if a balance remains after the promotion expires.

B. Existing Advertising Disclosures

GEMB requests that the Board consider a specific revision to the existing advertising disclosures in Regulation Z. Specifically, under Regulation Z, if an issuer uses a trigger term under § 226.16, it must, among other things, "clearly and conspicuously set forth…[a]ny periodic rate that may be applied" to the account, the fact that the rate is variable (if applicable), and certain charges, such as a minimum charge, that could be imposed. We interpret the regulation to require an issuer to list not only the APR applicable at account opening, but any potentially applicable APRs, including the "go to" APR (if a promotional APR is advertised), the default APR, the cure APR, and any other potentially applicable APR. Therefore, a disclosure for a card priced on risk could read:

> "As of [date], variable APRs for the cards offering the promotion are 11.15%, 17.15%, 20.15%, or 21.15%. Variable penalty APR 26.25%. Variable cure APRs are 20.15% and 21.12%. Minimum finance charge $1.00."

We believe this disclosure requirement in the context of risk-based pricing is overly cumbersome to consumers and could be made more concise. For example, we believe the disclosure could (i) simply state that the APR varies (if applicable) and is assigned to each account when the account is opened, and (ii) provide the highest possible standard APR. If this approach were adopted, the above example would read:

> "APR varies and is assigned to each account when opened. As of [date], highest standard APR is 21.15%."

This is a much more concise disclosure for consumers to read and it provides them the information necessary to determine whether the product advertised is of interest. GEMB does not believe that there is marginal benefit to disclosing potential penalty APRs, cure APRs, or minimum finance charges given that it makes the disclosure more lengthy and less likely to be understood by consumers. We also note that the consumer will receive the more fulsome disclosures pertaining to all applicable APRs as part of the application itself.

X. Opening Accounts By Telephone

Regulation Z generally requires that the initial disclosures be provided to the consumer "before the first transaction is made under the [credit] plan." The Proposed Rule includes a provision that would permit more flexibility for accounts opened over the phone with "merchants" to concurrently purchase goods, as long as certain conditions are met. We strongly agree with the Board's suggested approach but ask that the provision be clarified to apply to accounts opened over the phone in connection with a concurrent purchase of goods, whether the accounts are opened "with the merchant" or "with a creditor who provides a credit program for customers of the merchant". This takes into account the fact that most

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Suite 200
Salt Lake City, UT 84123-2551

merchants do not operate their own credit programs and instead maintain credit programs in partnership with banks like ours.

XI. Definition of Open-End Credit

A. "Spurious" Open-End Credit

The Proposal includes significant revisions to the Commentary provisions pertaining to the definition of "open-end credit" under Regulation Z. It appears that there are some who advocate that it would be more appropriate for certain credit plans to have the closed-end disclosures required under Regulation Z than the open-end disclosures provided today. The Board describes two of the circumstances as relating to "spurious" open-end credit plans and "certain so-called multifeatured open-end plans." By proposing revisions to the Commentary, the Board would attempt to clarify the definition of "open-end credit" by narrowing its scope.

GEMB does not believe it is necessary to revise the Commentary relating to the definition of "open-end credit" to address the concerns outlined by the Board. It would seem that the existing regulation and Commentary provide sufficient guidance for creditors and the Board to determine whether a plan is an open-end or closed-end plan based on the overall features of a particular plan and the expectation of repeated transactions. We are particularly concerned that the proposed changes to the Commentary may create more confusion and unintended consequences than exists today under the existing interpretations of Regulation Z, which themselves have been heavily litigated over the years. Changing the definition of open-end credit now will only reopen the floodgates of litigation while jeopardizing many legitimate open-end credit plans.

B. Sub-Accounts

The Proposal would also revise the Commentary as it relates to "subaccounts" of an open-end credit plan. This revision suggests that "subaccounts" with different credit terms must have the credit line replenished upon repayment. While this may be true with certain features under a credit card or other clearly open-end plan, it is not necessarily always true. A credit card account with a temporary promotional APR, for instance, may have its credit line replenished upon repayment, but not necessarily with the temporary promotional terms. At a minimum, the Board should clarify that sub-accounts or plans set up to facilitate the administration of promotional terms to particular balances are not of the type that need to be replenishable as long as the amount of credit on the overall account can be re-used as balances (including the sub-account balance) are paid down.

XII. Effective Date

GEMB requests that the effective date for the final rule provide card issuers sufficient time to review the final rule, inventory necessary changes, effectuate such changes, and test such changes. We believe this process would take at least two years—a two-year time period is especially necessary for changes to the billing statement fields or format. It is our hope that the Board will allow card issuers two years after the final rule is published in the *Federal Register* before compliance with the final rule is mandatory, but would also ask for a lengthy voluntary compliance period to allow transitioning of new disclosures as they are ready. Additionally, we would request that during the voluntary compliance period, some tolerance be allowed for terminology (such as "interest" vs. "finance charges") in cardholder

GE Money Bank
4246 South Riverboat Road
Suite 200
Salt Lake City, UT 84123-2551

solicitation and account-opening disclosures, to vary from the terminology used in statement disclosures. This would ease the complexity of the transition.

We also ask the Board to state specifically that the changes in Regulation Z would not apply to disclosures given, or advertisements made, prior to the mandatory effective date. Although we believe this would be true regardless of any clarification, we ask the Board to so state as part of the final rule.

XIII. Conclusion

Again, GEMB appreciates the effort the Board and its staff have made in proposing thoughtful revisions to Regulation Z. GEMB generally supports the Board's approach to many of those key revisions, including the general revisions to the application and solicitation disclosures and the account-opening disclosures. We appreciate the opportunity to provide our concerns about other portions of the Proposal, and hope the Board will consider our suggestions for improving Regulation Z for consumers and card issuers alike. Please do not hesitate to contact me if GEMB can be of further assistance in this matter.

Sincerely,

Brent Wallace
President