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## Media Release

FOR IMMEDIATE RELEASE

### NCUA to Issue Proposed Unfair or Deceptive Credit Practice Rule

May 1, 2008, Alexandria, Va., The National Credit Union Administration (NCUA) Board has approved a joint proposed rule prohibiting credit card and overdraft service practices as unfair or deceptive under Section 5 of the Federal Trade Commission Act.

The NCUA, Federal Reserve Board and Office of Thrift Supervision are issuing a joint proposed rule tomorrow that would prohibit the following seven practices associated with credit card programs:

- (1) Unfair time constraints for consumers to make payments;
- (2) Unfair allocation of payments among balances with different interest rates;
- (3) Unfair application of increased annual percentage rates to outstanding balances;
- (4) Unfair fees for exceeding the credit limit solely because of a hold placed on an account;
- (5) Unfair balance computation method;
- (6) Unfair financing of security deposits and fees for issuance or availability of credit; and
- (7) Deceptive firm offers of credit.

The proposal would also require federal credit unions (FCU) provide an opportunity for a consumer to opt out of an overdraft protection program, and it would prohibit an FCU from charging a fee for an overdraft caused by a hold placed on consumer funds in connection with the use of a debit card.

Details of proposed rule provisions follow.

#### Prohibited Credit Card Practices

1. *Late payments* -- A payment could not be deemed late unless the borrower is given a reasonable period of time to make the payment. The proposal recommends credit card statements be mailed at least 21 days before the payment due date.
2. *Payment allocation* -- When a credit card account balance is attributed to items

with different interest rates, e.g., balance transfers, cash advances, and purchases, the proposal would require FCUs reasonably allocate payments in excess of the required minimum payment among each item in a manner no less beneficial to the member than one of the following:

- First to the item with the highest annual percentage rate, with any remaining portion to other balances in descending order by applicable annual interest rate;
- Equal portions to each item; or
- Proportionately based on each item's outstanding balance.

3. *Retroactive interest rate increases to pre-existing balances* -- The proposal would prohibit applying an increased interest rate retroactively to pre-existing balances, except for cases involving a variable rate, the expiration of a promotional rate, or where the member is more than 30 days late in making the minimum payment.

4. *Fees for exceeding the credit limit* -- The proposal would prohibit assessing an over-the-credit limit fee against a member who exceeded the credit limit solely because a hold is placed on the account.

5. *Double-cycle billing* -- The proposal would prohibit a federal credit union from computing the finance charge using a "two-cycle" average daily balance computation.

6. *Security deposits and fees for the issuance or availability of credit* -- The proposal would prohibit financing a security deposit or other fees associated with opening an account if the charges constitute more than 50 percent of the available credit offered to the member. Additionally, when the security deposit or the fee exceeds 25 percent of the available credit, the financial institution would have to spread the charge over the first year of the account instead of charging a lump sum.

7. *Firm offers of credit* -- The proposal would require a firm offer of credit with a range of rates and terms to include a description of the factors used to determine whether the member will qualify for the best rates and terms.

#### Prohibited Overdraft Protection Program Practices

1. *Opt out* -- The proposal would prohibit an FCU from imposing a charge for payment of an overdraft, unless it has provided the member with an opportunity to opt out of the overdraft protection program, and the member has elected not to opt out. Members may elect to do a partial opt-out to prevent overdrafts caused by ATM withdrawals and point of sale transactions.

2. *Overdrafts created by a debit card*. As proposed, no overdraft charge may be imposed if the overdraft is caused solely by a hold placed on funds that exceed the actual purchase amount of the transaction, unless the actual purchase amount would have caused the overdraft.

The proposed joint rulemaking will be available Friday afternoon at approximately 2:30 p.m. on NCUA's website

[click here.](#)

The National Credit Union Administration is the independent federal agency that charters and supervises federal credit unions. NCUA, with the backing of the full faith and credit of the U.S. government, also operates and manages the National Credit Union Share Insurance Fund, insuring the savings of nearly 87 million account holders in all federal credit unions and the majority of state-chartered credit unions.