

## BOARD ACTION MEMORANDUM

**TO:** NCUA Board

**DATE:** May 12, 2008

**FROM:** Office of General Counsel

**SUBJ:** Proposed Rule: Unfair  
or Deceptive Acts or  
Practices (Part 706)

**ACTION REQUESTED:** Staff briefing on 12 C.F.R. part 706, the joint proposed rulemaking with the Federal Reserve Board and Office of Thrift Supervision prohibiting certain credit card and overdraft protection practices as unfair or deceptive under section 5 of the Federal Trade Commission Act, 12 U.S.C. 45.

**DATE ACTION REQUESTED:** May 22, 2008.

**OTHER OFFICES CONSULTED:** Office of Examination and Insurance.

**VIEWS OF OFFICES CONSULTED:** Concurred.

**BUDGET IMPACT, IF ANY:** None.

**SUBMITTED TO INSPECTOR GENERAL FOR REVIEW:** Yes.

**RESPONSIBLE STAFF MEMBERS:** Moissette Green and Ross Kendall, Staff Attorneys, Office of General Counsel; Matthew Biliouris, Program Officer, Office of Examination and Insurance.

**SUMMARY:** NCUA, the Federal Reserve Board, and the Office of Thrift Supervision (the Agencies) issued a joint proposed rule to prohibit certain credit card and overdraft protection practices. The proposed rule would prohibit as unfair or deceptive seven practices associated with credit card programs: (1) providing consumers insufficient time to make payments; (2) failing to provide reasonable allocation of payments among balances with different interest rates; (3) retroactively applying interest rate increases to pre-existing balances; (4) assessing over the limit fees when consumers exceed their available credit limit solely because of a hold placed on the account; (5) calculating finance charges using double cycle billing; (6) financing excessive security deposits and fees for the issuance or availability of credit; and (7) making inadequate disclosures in connection with firm offers of credit. The proposal would also require an FCU to provide an opportunity for a consumer to opt out of an overdraft protection program and 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.

**RECOMMENDED ACTION:** Staff present the joint Proposed Rule previously considered by notation vote.

**ATTACHMENT:** Proposed Rule.