

WASHINGTON – Reps. Carolyn Maloney (D-NY), Louise Slaughter (D-NY), Spencer Bachus (R-AL) and Barney Frank (D-MA) today asked Raj Date, the acting head of the Consumer Financial Protection Bureau (CFPB), to study and report back on the impact of so-called 'ability to pay' rules implemented by the Federal Reserve before the CFPB took over implementation of the Credit CARD Act.

The rule, amending Regulation Z, took effect October 1st and required all consumers to demonstrate an 'independent ability to pay'—rather than the dual standard for college-age consumers and all others called for in the legislation.

The lawmakers wrote, "In a June 15th response to our request, the Federal Reserve agreed that a study would be useful to assess unintended consequences of the rules. The Fed noted that the Bureau has the authority to design and conduct a study to inform potential future rulemaking. The Federal Reserve also said it was ready to consult with the Bureau in order to share their experience and expertise in this area.

"The CFPB has a unique perspective and can look across the credit card issuing industry to determine any potential negative impact. Through your consumer complaint line you can also learn first-hand from those directly affected. We believe that a study is both timely and necessary and we would urge the Bureau to begin this process before the end of the year," the lawmakers concluded.

"It's important that legislative intent of the CARD Act is followed," Maloney said. "We need to make sure that women are not subject to credit denials because of a misreading of the law. Nonworking spouses must continue to have access to credit using household income, and the CFPB has the tools to tell if that is happening."

"When we passed the landmark Credit CARD Act, it was fundamentally about fairness to the average consumer," said Slaughter. "While I was proud that my amendment to protect young adults was included in the legislation, we should remember that a separate, stricter ability to pay standard was necessary to protect college students from falling into crippling debt. I urge the CFPB to review and amend these rules to ensure they do not harm stay-at-home mothers."

Full text of the letter to Date follows, with useful links below that.

December 5, 2011

Mr. Raj Date

Special Advisor to the Secretary of the Treasury

Consumer Financial Protection Bureau

1801 L Street NW

Washington, DC 20036

Dear Mr. Date,

We write to follow up on the "ability to pay" provisions in the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 that were the subject of rules issued by the Federal Reserve earlier this year. As you know, the Federal Reserve finalized its rules regarding Regulation Z on March 18, 2011 and they were effective on October 1, 2011. We

would respectfully request that the CFPB conduct an extensive review of the potential impact that these new rules are having on the ability of consumers to obtain credit and amend Regulation Z if it finds a negative impact.

The Federal Reserve's final rules create a uniform standard requiring all consumers to demonstrate "an independent ability to repay." We believe that these rules contradict the Congressional intent of the Credit CARD Act since the Act created two distinct standards, one for younger consumers and one for all others. We also are concerned that these rules will disadvantage stay-at-home spouses who may not have an independent source of income but whom may have ample "household income" to secure lines of credit.

As you know, Members wrote to the Federal Reserve on May 6, 2011 requesting that the Federal Reserve, in consultation with the CFPB, undertake a study to look at the effects of applying a uniform standard on all consumers in the first six months after the implementation with a report back to Congress. We further requested that if it is found that stay-at-home spouses have been negatively impacted, the Board or the CFPB should then amend the rule to correct any problems it has found. We believe that especially in light of the approaching holidays and the increase in credit card usage, this study should begin as soon as possible.

We understand from some issuers that there may have already been a negative impact on the ability of stay-at-home spouses to secure a line of credit. One issuer has seen a greater decline in the size of the average line of credit assigned to women as opposed to men across all approved applicants. In addition, approval rates have declined significantly for women in certain age groups, especially for those 62 and over, who may be particularly likely to rely on the income of other household members (for example, a spouse's retirement income).

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The CFPB has a unique perspective and can look across the credit card issuing industry to determine any potential negative impact. Through your consumer complaint line you can also learn first-hand from those directly affected. We believe that a study is both timely and necessary and we would urge the Bureau to begin this process before the end of the year.

Sincerely,

CAROLYN B. MALONEY

BARNEY FRANK

SPENCER BACHUS

LOUISE SLAUGHTER

SHELLEY MOORE CAPITO

WALTER B. JONES

GWEN MOORE

JAMES B. RENACCI

CAROLYN MCCARTHY

STEVE STIVERS

LUIS V. GUTIERREZ

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MICHAEL G. FITZPATRICK

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ROBERT J. DOLD

GARY G. MILLER

BLAINE LUETKEMEYER

DAVID SCOTT

STEPHEN F. LYNCH

MICHAEL E. CAPUANO

KEITH ELLISON

JOHN J. DUNCAN JR.

Credit CARD Act statutory language is viewable here:

<http://www.gpo.gov/fdsys/pkg/PLAW-111publ24/html/PLAW-111publ24.htm>

Section 301 is the section dealing with underage consumers;

Section 109 is the section dealing with all consumers.

[Maloney and Slaughter had previously written the Fed asking them to amend their rule.](#)

Maloney is an author of the Credit CARD Act; Slaughter was the author of the under-21 language. Frank is the ranking Democrat and Maloney is a senior Democrat on the House Financial Services Committee; Fitzpatrick is a Republican member of the Committee.