Final Rule on Credit Card Account Fees for Higher Risk Borrowers Issued by CFBP

April 16, 2013 - When the Dodd-Frank financial reform bill was signed into law, one of its provisions was to limit the amount that creditors could charge borrowers in the form of fees during the first year after a credit card was issued. Congress was trying to stop card issuers who issue cards to consumers with less than ideal credit from charging exorbitant fees. These fees often ate up the majority of the cards credit limit as soon as the card was issued. But these lenders quickly found a means to get around the new law and, when the FED tried to stop them, the federal courts stepped in and sided with lenders. The new rule adopted by the Consumer Financial Protection Bureau brings the rules in line with court decisions.

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Under Dodd-Frank, lenders that issue high-priced credit cards to higher-risk borrowers were limited to charging 25% of the card's credit limit in fees during the first year after the account is opened. That limit doesnâ€™t include late fees, returned check fees or fees for exceeding the card's credit limit. While charging 25% of the card's limit in fees may sound like a lot - and it is - it is nothing compared to what was being charged before the law went into effect.

But businesses are not stupid. Card issuers quickly focused on the portion of the law that limited fees "after the account was opened," and determined that there was no limitation on what they could charge before an account was opened up. So they started charging application fees, setup charges, etcâ€¦ That's when the FED stepped in.

The FED tried to put a stop to these new up-front fees by expanding the meaning of the law as it was written. The lenders quickly took the FED to court and they won. In September 2011, a federal court in South Dakota issued an injunction against the FED interpretation of the law and prevented them from placing a cap on fees that are charged prior to opening an account. That injunction has been in effect ever since.

The new CFPB rule conforms to the court ruling. Further action by Congress to change the law is probably not in the cards. It is highly unlikely that any law similar to Dodd-Frank could make its way through Congress today and there are some very loud calls to repeal it.

byJim Malmberg
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