



**Consumer Federation of America**

1620 I Street, N.W., Suite 200 \* Washington, DC 20006

October 29, 2008

The Honorable John Dugan  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
250 E St., SW  
Washington, DC 20219-0001

Dear Comptroller Dugan:

We are writing on behalf of lenders as well as consumers to seek approval for a test in which major national banks will accept dramatic new concessions from borrowers who are so heavily indebted that they do not qualify for standard, currently-available repayment plans. Major lenders and credit counseling agencies stand ready to conduct this test, contingent upon OCC approval. American consumers are carrying record levels of debt. Given the current financial situation, national banks and credit counseling agencies are reporting that an increasing number of consumers do not qualify for existing debt relief programs.

Under current industry practice, lenders offer programs to distressed borrowers that reduce payments, interest rates and penalties, but not significant reductions in the principal debt owed. Working with credit counseling agencies, a group of lenders, including virtually all of the largest national credit card banks, have agreed to a limited duration test to determine whether this class of consumers could benefit from new, more generous concessions and whether such concession increase collections. This test will involve reduced balance repayment plans, whereby lenders actually forgive a portion of the amount owed and the borrower repays the remainder over time. We believe that permitting and approving such a test would be in the best interest of consumers, lenders and the American economy – especially in the current climate.

Pursuant to your letter to the Financial Services Roundtable of August 31, 2007, and under Circular 2003-1, the lending industry understands that settlements (agreements between a lender and borrower where the borrower only repay a portion of the outstanding debt) must generally be paid in full within three to six months and lenders must recognize as a loss any amount forgiven within three to six months, thereby triggering an obligation to report a potential income tax liability for the borrower to the IRS.

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It is not necessary to apply this approach to the reduced balance repayment plans contemplated by this test. For lenders, requiring them to write off the forgiven amount immediately creates a financial disincentive for debt forgiveness. For consumers with significant credit card debts, many simply do not have the funds to make lump sum payments and pay a tax liability within a few months of reaching a settlement agreement. They are much more likely to have the ability and willingness to repay their obligations over time.

From a regulatory perspective, under the test, customers who would otherwise be a total loss for a national bank will now actually repay some amount. Thus, because the new concessions will only be available to consumers who would otherwise file bankruptcy or simply default, it is more accurate from a safety and soundness and accounting perspective to delay loss recognition, and income reporting to the IRS, until the reduced balance repayment plan is completed or the borrower defaults on the plan.

From a public policy perspective, the test could lead to the creation of a sound alternative for consumers to costly for-profit third-party debt settlement firms, some of which have been under scrutiny by the Federal Trade Commission and state Attorneys General for deceptive and unfair practices.

We ask that the OCC take into consideration the urgency of this issue and provide clear guidance to lenders that, for the purposes of this test, consumers can repay less than the full amount owed over time and that loss recognition and income reporting can be delayed.

Lenders will not proceed with tests outside of the current guidance, therefore we would ask for a response as soon as possible.

Sincerely,



Scott Talbott  
Senior Vice President  
The Financial Services Roundtable



Travis Plunkett  
Legislative Director  
Consumer Federation of America