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CONSUMER PROTECTION DIVISION



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Department of Justice

August 21, 2009

Via Electronic Mail

R.E. Change in Billing Date
Informal Advisory Opinion #96

Dear :

This letter is in response to our telephone conversation. During the conversation you raised the question of whether a credit union might change the billing due date of an open-end consumer loan without the sixty-day notice required in Iowa Code Section 537.3205(1). As you noted, pursuant to the Credit Card Accountability, Responsibility and Disclosure Act of 2009 (CARD Act) creditors must deliver periodic statements to all open-end loan customers at least 21 days before the payment due date or the end of the period a consumer can repay credit without a finance charge, whichever is earlier. The credit unions seek to change the date which payment is due on open-end consumer loans in order to come into compliance with the new federal regulation and to mail out one notification of payment due.

After a review of the law, it is the opinion of this office that credit unions may not unilaterally change the date of the billing period on open-end credit agreements because the billing period is a material term of the loan and manipulation of that date requires appropriate customer notification or approval pursuant to Iowa Code Section 537.3205. The attempt to change the date which payment is due may result in an increase in a periodic payment due and that increase contravenes Iowa Code Section 537.3205(2) which provides (emphasis added):

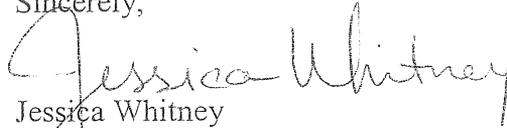
Unless authorized by this chapter or unless agreed by the consumer, a creditor shall not change the terms of an open-end credit account, with respect to a balance incurred before the effective date of the change, which results in an increase of the rate of the finance charge or other charge or *an increase in the amount of periodic payment due*, or which otherwise adversely affects the interests of the consumer with respect to the balance.

While the change the credit union requests is unlikely an intentional harm to consumers and, in fact, may be more convenient to some consumers, the resulting change would result in an increase in the amount of at least one periodic payment due. Whether it be on the first or second bill notification, the payment due will increase for at least one billing period. Moreover, changing the date a bill is due may adversely affect consumers in

other ways such as not having received a planned-on paycheck before the new billing date. Although the current requested change would likely have a benign impact, it is not difficult to imagine foreseeable abuse if the date of payment due is allowed to be changed without proper notification or consent. For those reasons it is the informal opinion of this office that in the process of coming into compliance with the CARD Act the credit unions should follow the procedures outlined in Iowa Code Section 537.3205.

Please note, that this is an informal opinion of the Administrator of the ICCC and not a formal opinion of the Attorney General. If you have further questions, please feel free to call.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Whitney". The signature is written in black ink and is positioned above the printed name and title.

Jessica Whitney
Assistant Attorney General
Deputy Administrator ICCC