January 29, 2009

Treasury Secretary Timothy Geithner
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: New liquidity program for non-mortgage debt should not support any consumer credit card debt which fails to meet standards for fair terms for individuals and families

Dear Secretary Geithner,

Consumer groups, faith based groups, civil rights organizations, labor unions, and community organizations write to request an important change to the taxpayer-backed credit program which is being launched in February 2009 to encourage the purchase of securitized credit card debt. We urge you to require that any securitized debt whose purchase is financed through this program meet standards for fairness and truthfulness, including those standards which were finalized in December 2008 by the Federal Reserve Board. We seek this change to ensure that any consumer credit card debt facilitated through this taxpayer-backed program will promote, rather than damage, household economic stability.

The program is the Term Asset Backed Securities Loan Facility (TALF). As we understand it, the TALF will use the Federal Reserve Board's credit facility power, be operated by the Federal Reserve Bank of New York, and include a special purpose vehicle which is capitalized with $20 billion in credit protection by the U.S. Treasury from TARP funds.

The $20 billion in taxpayer funds is anticipated to support a program for up to $200 billion in non-recourse loans to buyers of securities backed by non-mortgage debt, including consumer credit card debt. In other words, buyers of credit card securitizations will be able to borrow funds from the Federal Reserve Bank of New York to purchase these securitizations, with repayment from revenues from the securitized credit card debts. The U.S. taxpayer will be supporting the program by picking up losses through a subordinated loan of $20 billion in TARP funds.

Our request

We ask you to impose two eligibility conditions on all financing by the TALF for credit card securitization pools:

1. Compliance now with details of the rule against unfair or deceptive acts or practices for all consumer credit card debt in the pool; and

2. A specific program for cardholders to earn a reduction in penalty interest rates back to a lower standard rate after no more than six months of on-time payments for all consumer credit card debt in the pool.

While this new program is very complex, our request is simple: Any government backed program to make capital available for credit card debt must be limited to that credit card debt which is not associated with practices that federal regulators have determined to be unfair or deceptive. Federal backing of credit card securitizations must also be limited to credit card debt with a clear "road map" to non-penalty rates for households who pay on time while under a penalty rate.

Reasons for this request

A stated purpose for the Troubled Assets Relief Program (TARP) is to restore stability to the financial system. However, the first installment of TARP money did not even begin to promote financial stability for borrowers, homeowners, and communities in the face of the tide of foreclosures, onerous credit card practices, and the crying need for affordable, sustainable, systematic loan modifications. The new TALF program for non-mortgage debt should limit its offer of liquidity to avoid the type of credit card debt that detracts from sustainable lending and household financial stability.

Many of our groups believe that the changes to credit card practices in the revised Regulation AA issued December 18, 2008 are only the first of several steps that must be taken to protect consumers from abusive credit card lending practices. However, the basic fairness rules in Regulation AA should be required for any credit card debt that should even be considered for government support: credit for which the interest rate doesn't jump when there has not been a delinquency of more than 30 days, credit for which the consumer gets the bill with a reasonable amount of time to pay before the due date, and credit on which payments are allocated at least proportionally to the highest interest rate balance held on the card.

Providing more capital for credit card lending will not meet the national need for enhanced financial stability for households if the credit card debt that is facilitated under the TALF can continue until July 1, 2010 to contain the harmful terms and practices that the Federal Reserve Board and two other federal regulators have identified as unfair or deceptive. For this reason, we respectfully urge that the Treasury Department impose a precondition that credit card securitizations can be eligible for the TALF program only if all issuers whose debt is represented in the securitization have certified that the consumer credit cards on which the debt is carried are structured so that their terms, conditions, and practices comply with the rules as described in the newly revised Regulation AA as of the time of the certification. (As written, Regulation AA gives issuers until July 1, 2010.)

Penalty interest rates are a significant drag on a household's economy. These rates can double or even triple a family's credit card interest rate. Because nearly all of the minimum credit card payment goes to finance charges, a doubled or tripled interest rate will also mean a near-doubling or near-tripling of the required minimum payment. If a family misses or pays late because of an unjustified interest rate increase they face a number of other adverse consequences, including late fees and a drop in their credit scores. This can create a cascading adverse effect for the household. As a result, the card debt financed through the TALF must include a clear and guaranteed method for cardholders who are, or become subject to, a penalty interest rate to work their way back into the pre-penalty rate within six months or a shorter time.

The challenges for the U.S. economy are great. Consumers cannot be the engine of economic recovery if they are burdened with high interest rate credit card debt that federal regulators have determined is not justified. As you work to facilitate liquidity in the credit markets, we ask you to include conditions that will ensure that the credit provided will promote, or at least not be detrimental to, family economic stability.

Very truly yours,

Gail Hillebrand
Financial Services Campaign Manager
Consumers Union of U.S., Inc.

Travis Plunkett
Legislative Director
Consumer Federation of America

Brenda Muñiz
Legislative Director
ACORN National

Jim Campen
Executive Director
Americans for Fairness in Lending (AFFIL)

Valerie Heinonen, o.s.u.
Consultant, Corporate Social Responsibility
Dominican Sisters of Hope
Mercy Investment Program
Sisters of Mercy Regional Community of Detroit Charitable Trust
Ursuline Sisters of Tildonk, U.S. Province

Lisa Kinard
Director of Federal Legislation and Regulation
International Brotherhood of Teamsters

Kathleen Keest
Senior Policy Counsel
Center for Responsible Lending

Jimmy Gurganus
Vice-President
CWA Telecommunications

Linda Sherry
Director of National Priorities
Consumer Action

Caleb A. Gibson
Advocacy and Legislative Coordinator
Dēmos: A Network for Ideas & Action

Ira Rheingold
Executive Director
National Association of Consumer Advocates

David Berenbaum
Executive Vice President
National Community Reinvestment Coalition (NCRC)

Chi Chi Wu
Staff Attorney
National Consumer Law Center
(on behalf of its low-income clients)

Janis Bowdler
Associate Director, Wealth-Building Policy Project
National Council of La Raza

George Goehl
Executive Director
National Training and Information Center
National People's Action

David Arkush
Director, Congress Watch Division
Public Citizen

Karen Harris
Supervising Attorney
Sargent Shriver National Center on Poverty Law

Maude Bauschard
Program Manager
USAction

Edmund Mierzwinski
Consumer Program Director
U.S. Public Interest Research Group

Leslie Kyman Cooper
Executive Director
Arizona Consumers Council

Al Sterman
Secretary/Treasurer
Democratic Processes Center, Arizona

Alan Fisher
Executive Director
California Reinvestment Coalition

Paula J. O'Brien
Legislative Counsel
New York State Consumer Protection Board

Corky Neale
Director of Research
RISE, Tennesee

Irene E. Leech
President
Virginia Citizens Consumer Council

Darryl Fagin
Legislative Director
Americans for Democratic Action, Inc.

Meredith Dodson
Director of Domestic Campaigns
RESULTS

For more information please contact

Gail Hillebrand
Senior Attorney
Consumers Union of U.S., Inc.
West Coast Office
1535 Mission St.
San Francisco, CA 94103
(415) 431-6747

Cc: William Dudley, President, Federal Reserve Bank of New York