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**Statement
of the
United Services Automobile Association (USAA)
to the
United States House of Representatives
Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
Hearing entitled "An Examination of the Federal Reserve's Final Rule on the CARD
Act's 'Ability to Repay' Requirement"**

June 6, 2012

Distinguished Chairwoman and Members of the Subcommittee:

The United Services Automobile Association (USAA) is pleased to offer comments to the House Committee on Financial Services Financial Institutions and Consumer Credit Subcommittee on the Federal Reserve's Final Rule on the CARD Act's "Ability to Repay" Requirement.

USAA is a membership-based association, which together with its family of companies, serves present and former commissioned and noncommissioned officers, enlisted personnel, retired military, and their families. Since USAA's inception in 1922 by a group of U.S. Army officers, we have pursued a mission of facilitating the financial security of our members and their families by providing a full range of highly competitive financial products and services, including personal lines of insurance, retail banking and investment products. Our core values of service, honesty, loyalty and integrity have enabled us to perform consistently and be a source of stability for our members, even in the midst of the unprecedented financial crisis of recent years.

At USAA, our mission drives us to address the unique financial needs of servicemembers and military families who often have limited time to manage their financial needs and who can be highly mobile. USAA offers products, tools and financial advice tailored to military families, focusing on major military milestones, such as deployment, permanent change of station and separating from the military. We offer those resources through employees who are trained to understand the unique needs of military personnel, as well as specialized and targeted member publications, face-to-face interactions and online resources.

1. Ability to Repay Requirement

On January 3, 2011, USAA wrote to the Board of Governors of the Federal Reserve System regarding its amendments to the Regulation Z provisions implementing the Credit Card Accountability Responsibility and Disclosure Act of 2009 (the CARD Act).¹ At that time,

¹ Comment Letter from Ronald K. Renaud, Assistant Vice President Exec. Attorney, USAA Fed. Sav. Bank, to Jennifer J. Johnson, Sec'y, Bd. of Governors of the Fed. Reserve Sys. 5 (Jan. 3, 2011).

USAA expressed our concerns regarding the impact of the rule's ability to repay provisions on married consumers in general, and on married consumers in the military in particular.

Military spouses, especially military wives, are much more likely to be underemployed (e.g. less-than adequately full-time employed), working part-time, or out of the labor force completely.² When the ability to repay requirement was being considered, USAA cautioned that the rule would have a disproportionate impact on military wives who tend to earn much less than their "look-alike" civilian counterparts³ and who depend more on spousal income.

Ultimately, the Federal Reserve's final rule⁴ did create a uniform standard requiring all consumers to demonstrate an "independent" ability to pay,⁵ and the rule has disadvantaged stay-at-home military spouses who do not have independent sources of income but have sufficient household income to secure lines of credit. Accordingly, we are providing our comments to the Subcommittee today to express our continued concerns regarding the rule's impact on married consumers and the disproportionate impact on married consumers in the military.

2. Negative Impact on Married Consumers Generally

As USAA stated in our comment letter to the Federal Reserve, Section 226.51 of Regulation Z does not permit a card issuer to consider household income or assets as part of its analysis of a consumer's ability to make minimum payments, unless the consumer has an ownership interest under federal or state law in the case of a community property state.⁶ This has a significant impact on married consumers because it precludes consideration of a spouse's income while, at the same time, mandating the use of all the couple's joint obligations.

We provided several examples illustrating the large discrepancy between the credit card approval rates and credit limits for unmarried and married consumers that was likely to result from this formula.⁷ By considering joint obligations, but not household income, the rule as implemented greatly understates the ability of a married consumer to make minimum payments on a credit card.

Married consumers with little or no income are precluded from obtaining a credit card under the ability to repay rule. These negative effects mainly impact the 27 percent of married women who do not work outside the home.⁸ It was the inability of married

² Nelson Lim and David Schulker, *Measuring Underemployment Among Military Spouses*, xvi, RAND Corporation (2010), available at <http://www.rand.org/pubs/monographs/MG918>.

³ *Id.*

⁴ 76 Fed. Reg. 22,948 (Apr. 25, 2011).

⁵ *Id.* at 22,975.

⁶ Renaud, *supra*, at 2.

⁷ *Id.* at 2-5 (providing examples demonstrating that a couple with one working spouse would be eligible for a lower credit card limit than a single applicant).

⁸ Lim and Schulker, *supra*, at 36 (Figure 5.1)

women to obtain credit that led to the passage of the Equal Credit Opportunity Act of 1974 (the ECOA). The purpose of the ECOA was to make credit "equally available to all creditworthy customers without regard to sex or marital status."⁹

In conducting hearings in 1973, a Senate report identified the effects of this problem on women: "Women who are divorced or widowed have trouble reestablishing credit. Women who are separated have a particularly difficult time since their accounts may still be in the husband's name."¹⁰ History has shown that the failure of a person to establish credit during a marriage could have devastating effects if the marriage ends in separation, divorce or death.

3. Negative Impact on Military Spouses Significantly Greater than on Civilians

Of greatest concern to USAA is the rule's disproportionate impact on military spouses, and particularly military wives. A full 50 percent of military wives do not work outside the home - 43 percent because they are not in the labor force and seven percent because they are unemployed.¹¹

Comparisons of military wives with their look-alikes - a group of weighted civilian wives, show that military wives have a much greater tendency to be underemployed. Military wives are much more likely than their look-alikes to be [not-in-the-labor force]. Military wives are more likely to involuntarily work part-time and to have relatively high[er] education for their jobs than their civilian counterparts. Finally, military wives are substantially less likely to be adequately [employed] full-time compared with similar civilian wives.

As a result, military wives must rely on their husband's income to a greater extent than civilian wives. In addition, the divorce rate among military couples is believed to be higher than for the civilian population and has been rising over recent years.¹² Accordingly, while the rule has a negative impact on the married consumer in general, its negative effects disproportionately impact military spouses.

Life in the military can be challenging and complicated. Servicemen, women and their families make sacrifices every day to keep our country safe and face unique financial stresses accompanying multiple deployments and frequent and costly relocations. Military families move 14 percent more often than civilian families.¹³ These burdens are often borne by the "stay at home" military spouse who may rely on access to credit products to manage family finances while their active-duty spouse is unavailable.

⁹ See Equal Credit Opportunity Act of 1974, tit. V, §502.

¹⁰ S. Rep. No. 93-278 (June 28, 1973).

¹¹ David Tarrant, *Stress of Separation takes its Toll on Military Families*, The Dallas Morning News, Dec. 19, 2010.

¹² *Id.*

¹³ Dep't of Defense Community Relations, *Employment Resources for Our Military Community*, June 5, 2012, <http://www.ourmilitary.mil/hot-topic/employment-resources-for-our-military-community/>.

The ability to repay rule as currently implemented, has likely reduced military spouses' access to credit and made the already complicated management of financial stresses unique to the military community even more difficult. Currently, there are approximately 750,000 spouses of active-duty military personnel with a 26 percent unemployment rate among them.¹⁴ Restricting the ability of non-working military spouses to access credit only exacerbates the financial strain on military families.

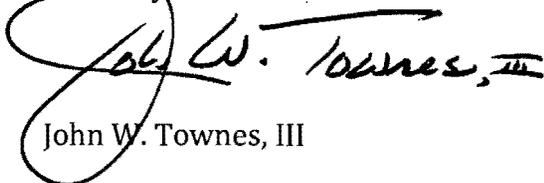
In addition, the rule's reliance on state law to determine ownership interest in the marital context results in a disparate impact on military spouses depending on their state of residence. The same non-working military spouse may be able to secure credit in California under the existing rule, but would be denied similar access to credit if he or she applied after changing his or her residence to Virginia, despite identical credit scores and family income.

4. Conclusion

USAA shares the concerns expressed by the twenty-five Members of Congress, including the Chairmen and Ranking Members of the House Financial Services Committee and the Financial Institutions and Consumer Credit Subcommittee, in a December 6, 2011 letter to the Consumer Financial Protection Bureau (CFPB) requesting a study of the effects of the uniform standard.¹⁵ We urge the CFPB to conduct a study on the rule's impact and look forward to learning its results.

USAA also appreciates the opportunity to provide comments to the Financial Institutions and Consumer Credit Subcommittee on the Federal Reserve's Final Rule on the CARD Act's "Ability to Repay" Requirement and applauds the Subcommittee's focus on this important issue. We urge the Bureau to revise the regulation to permit card issuers to use household income when considering the ability of consumers to pay credit card debt. USAA believes this change is necessary to remedy the rule's negative impact on our military community and the disproportionate impact on military spouses.

Sincerely,



John W. Townes, III

Rear Admiral, USN (Ret.)
Senior Vice President
Military Affairs

¹⁴ *Id.*

¹⁵ Letter from Carolyn B. Maloney et al., Members of Congress, U.S. House of Reps., to Raj Date, Spec. Advisor to the Sec'y of the Treasury, Consumer Financial Protection Bureau (Dec. 6, 2011).