

STATE OF MINNESOTA  
OFFICE OF THE STATE TREASURER

In the Matter of the Proposed Rules  
Governing Credit Card Disclosure Reports,  
Minn. Rules Parts 9700.0100 to 9700.0400.

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

II. STATEMENT OF STATE TREASURER'S STATUTORY AUTHORITY

The statutory authority of the State Treasurer to adopt the rules is set forth in 1992 Minnesota Laws, Chapter 552, to be codified at Minnesota Statutes, Section 325G.415, subdivision 2, which provides:

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. (325G.415) CREDIT CARD DISCLOSURE REPORTS.

Subdivision 1. FILING WITH STATE TREASURER. A creditor who distributes a credit card application in this state after the effective date of this section must file with the state treasurer a written report containing the disclosures required or allowed by sections 325G.42 and 325G.46. This report must be filed annually on December 31.

Subd. 2. RULEMAKING. The state treasurer shall adopt rules governing: (1) the form and content of reports to be filed under subdivision 1; and (2) public access to the information filed.

The state treasurer may adopt other rules as necessary to administer subdivision 1.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective July 31, 1992.

Under this statute the State Treasurer has the necessary statutory authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minnesota Statutes, Chapter 14 (1990), requires the State Treasurer to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the State Treasurer must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and

reasonableness means that the solution proposed by the State Treasurer is appropriate. The need for the rules is discussed below.

1992 Minnesota Laws, Chapter 552, subdivision 2, specifically directs the State Treasurer to adopt rules governing: (1) the form and content of the Credit Card Disclosure Reports required by subdivision 1, and (2) public access to the information filed in the reports. The State Treasurer is also permitted to adopt other rules as necessary to administer subdivision 1.

#### IV. STATEMENT OF REASONABLENESS

The State Treasurer is required by Minnesota Statutes, Chapter 14, to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the proposed action by the State Treasurer. The reasonableness of the proposed rules is discussed below.

##### A. Reasonableness of the Rules as a Whole

The State Treasurer has made a concerted effort to propose rules which require creditors to report only information which they are already required to collect and disclose to credit card applicants. The report form is short and allows for electronic filing; reporting has been made as convenient as possible.

##### B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

#### Part 9700.0100 DEFINITIONS

Part 9700.0100 defines the terms "credit card application" and "creditor." This is reasonable because the referenced statute does not specifically define who is considered a "creditor" and what is considered a "credit card application." The proposed rule adopts definitions already contained in Minnesota statutes thereby minimizing the possibility of an affected person or institution being unintentionally included in a class.

#### Part 9700.0200 CREDIT CARD DISCLOSURES REPORT

Part 9700.0200 describes who must file a credit card disclosure report form, states when the report form must be filed, establishes the date on which the information contained in the report must be current, and sets forth the format of the report form itself.

This is reasonable because the statute requires a "report" to be filed. It is convenient for both the State Treasurer and the reporting creditor that the report be in a standard format. It is easier for the State Treasurer to process; the creditor has a higher degree of assurance that the information provided by the

creditor will be in compliance with the statute. The information required in the report form is consistent with the disclosures required by Minnesota Statutes, Sections 325G.42 and 325G.46.

It is also reasonable that the information provided annually by the creditor on December 31 should be current as of January 1 of the following year. It seems clear that the purpose of the statute is to provide information which will be helpful to individuals making credit card decisions in the future. The rule anticipates that the reported information may be of the type that would change at the end of a month or at the end of a year; therefore, information current as of December 31 may not accurately reflect a creditor's circumstances looking forward. It is also assumed that this "future" information is readily available to creditors since decisions regarding these matters must be made by creditors well in advance of the last day for reporting.

#### **Part 9700.0300 ELECTRONIC FILING PROCEDURES**

Part 9700.0300 provides creditors with the option of filing Credit Card Disclosure Report Forms electronically rather than by the usual paper format.

This is reasonable since the rule does not require electronic filing. It is merely a choice made available to the creditor at the creditor's option. It is assumed that electronic filing may be easier for some creditors and, if used, will be administratively more convenient and efficient for the State Treasurer.

#### **Part 9700.0400 PUBLIC ACCESS TO INFORMATION FILED**

Part 9700.0400 provides that the information reported to the State Treasurer in the Credit Card Disclosure Report Forms shall be made available to the public upon request, subject to the provisions of Minnesota Statutes, Chapter 13 (Government Data Practices).

This is reasonable because it assures that anyone may have access to any information not otherwise protected under the Government Data Practices Act.

### **V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING**

Minnesota Statutes, Section 14.115, subdivision 2 (1990), requires the State Treasurer, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or

reporting requirements for small businesses;


- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The proposed rules may affect small businesses as defined in Minnesota Statutes, Section 14.115 (1990). As a result, the State Treasurer has considered the above-listed methods for reducing the impact of the rule on small businesses. The proposed rules and the statute authorizing the State Treasurer to adopt rules require the disclosure of information which creditors must already disclose to credit card applicants under current federal and state laws. Therefore, it was concluded that the additional impact of this statute and the proposed rules on small businesses is relatively small.

#### VI. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules Parts 9700.0100 to 9700.0400 are both needed and reasonable.

Dated: August 31, 1992

  
Michael A. McGrath  
Treasurer  
State of Minnesota