



1700 N. Moore Street, Suite 2250, Arlington, VA 22209  
Phone: (703) 841-2300 Fax: (703) 841-1184  
Email: [info@rila.org](mailto:info@rila.org) Web: [www.rila.org](http://www.rila.org)

September 22, 2009

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

Dear Secretary Geithner,

On behalf of the of the Retail Industry Leaders Association (“RILA”), I am writing to express our concern regarding a recent action by the Office of the Comptroller of the Currency (“OCC”) and the Office of Thrift Supervision (“OTS”) to eliminate critical “No Interest, No Payments” retail-financing programs. We request that you review this decision and its impact on consumer choice and retail sales during this period of challenging economic growth in the United States.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry – retailers, product manufacturers and service suppliers – which together account for more than \$1.5 trillion in annual sales. RILA member provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Recently RILA learned through its members that partner with certain banks to offer retail financing to their customers, that the OCC and OTS have issued guidance to their regulated banks that after February 22, 2010, “No Interest, No Payment” financing would no longer be allowed. Any “No Interest” or deferred-financing promotion would consequently require monthly payments. RILA is deeply concerned that no formal rulemaking procedure has been followed in issuing this guidance. Moreover, neither OCC nor OTS has been able to present any concrete evidence that No Interest, No Payment promotions have an impact on the safety and soundness of their regulated banks or their credit card programs.

**No Interest, No Payment Financing Gives Consumers Flexibility and Choice.**

No Interest, No Payment financing is a deferred-interest financing program that allows consumers to incur no interest on purchases if paid off within a certain period of time (usually 3 to 12 months, depending on the offer). During that time, the consumer is not required to make monthly payments but is free to pay any or all of the promotional balance, which provide the consumer with flexibility in budgeting. Quite often, this type of financing is used for emergency-type appliance purchases (i.e., broken refrigerator, washer/dryer or water heater) and allows consumers the chance to obtain the needed goods. For example, some consumers might

use tax refunds that they will receive in a few months to pay for these goods during the promotional period. This method of financing allows consumers to make needed purchases while still giving them the maximum flexibility in controlling their own repayment budgets.

These deferred financing promotions provide consumers with a cost-effective means for purchasing large-ticket, hard goods (e.g., refrigerators, clothes washers and dryers, water heaters, heating and air-conditioning systems) that often wear out or require replacement at unexpected or inconvenient times. Hence, these promotions are critical tools that enable consumers to buy what they need when they need it. They also support tens of billions of dollars in consumer purchases annually among our members, which helps generate economic growth on a national scale. We have received data showing that deferred-interest financing may represent 15 to 20 percent of total sales (on an annualized basis).

### **Retailers Have A Vested Interest In Providing Financing Programs That Are Helpful To Our Customers**

Retailers place customers' needs at the forefront of our decision making, and we offer goods and services that they desire, not the least of which are flexible-financing options. We take great effort to provide credit card and other financing programs that are helpful and promote a good customer experience. Our members' customer-satisfaction surveys show high levels of satisfaction with No Interest, No Payment financing programs, and many customers avail themselves of these programs repeatedly. Clearly, retailers are providing a needed and desired benefit to their customers when they promote deferred-interest financing programs.

### **No Interest, No Payment Promotions Demonstrate Low Credit Risk and Responsible Consumer Behavior**

Our members' experience with these transactions does not suggest that the types of deferred-interest financing programs they offer today cause consumers to buy more than they can afford. We have received data that shows a 7.5-percent gross write-off rate in 2008 for these promotional deferred-interest sales, and over a 14-percent gross write-off rate in 2008 for non-promotional sales. We see no demonstrable evidence that No Interest, No Payment financing creates any more risk to the safety and soundness of bank lending than non-promotional financing.

Importantly, aggregate member company data shows that the vast majority of customers pay off their promotional balances within the promotional period, and in some instances the pay-off rate may reach as high as 87 percent (i.e., the percent of customers who pay off within the time allowed and do not get assessed any accrued interest charges). This demonstrates that the vast majority of customers do not make purchases they could not otherwise afford, and that they use these deferred-interest programs to help them manage unexpected expenses in the way that best suits them.

Further, we have received credit score statistics (FICO scores) about customers from our members' banking partners that support the position that customers who take advantage of deferred-interest financing programs are good customers with strong credit performance and can and do handle their purchases responsibly:

	12/07	3/08	6/08	9/08	12/08
Deferred Interest Sales FICO	716	719	719	723	720
Regular Non-Deferred Interest Sales FICO	710	713	715	715	

**This Proposed Action By The OCC and OTS Alters The Playing Field – Favoring Some Retailers Over Others Based Solely On Their Banking Partner Regulator**

Not all of our retailer members offer consumer-financing programs through banks regulated by the OCC and OTS. Some partner with state chartered banks regulated by state banking officials and the Federal Deposit Insurance Corporation (FDIC). While the OCC and OTS have taken this unnecessary step of banning No Interest, No Payment financing, the FDIC has remained silent on this subject. No agency has gone through any rulemaking process that would allow organizations like RILA and the individual retailers affected by such sweeping decisions to comment and present a full picture for consideration. In fact, the OCC and OTS appear to be working off of guidance issued in 2003 that is not particularly relevant today and should be updated through a complete and open rulemaking process. If the FDIC and other lenders do not require similar restrictions on retail financing for their regulated banks, the OCC and OTS will have created an unequal playing field that will have devastating consequences to our member retailers.

Depending on the bank with which the retailer has partnered to offer consumer financing, the retailer may or may not be allowed to offer No Interest, No Payment deferred-financing programs. Subsequently, financing offers to consumers would vary depending on the partner bank's regulator. This would shift sales from one merchant to another without any perceived benefit to the banking system as a whole. But, the effects on sales at the merchants who happen to have financing programs through banks regulated by the OCC and OTS would be devastating. With the variety of banking institutions that partner with retail merchants to offer consumer financing, we do not believe that allowing different lending standards that would shift consumer purchasing to different retailers depending on that merchant's banking partner serves any purpose to the banking industry as a whole, and ultimately works to the detriment of consumers.

Given the dramatic consequences to some retailers that banning No Interest, No Payment financing programs present, and the fact that there has been no demonstration that these types of financing programs cause any increased risk to the banks themselves, or to the consumers who use them to finance the goods they need (often urgently), we request that you review the guidance issued by the OCC and OTS and request the financial justification for issuing that guidance under the guise of "safety and soundness" or "consumer protection." At the very least,

September 22, 2009  
The Honorable Timothy Geithner  
Page 4

we request that should such a dramatic shift in financing plans be perceived as necessary, the various banking agencies should be unified and go through the formal rulemaking process to allow other organizations to present the complete and accurate picture of what such a proposal would mean, both to the consumers and retailers, as well as to the economy as a whole.

In closing, RILA appreciates the opportunity to bring to your attention our strong concerns regarding actions to eliminate popular No Interest, No Payment promotions, and we would welcome the opportunity to provide you with additional information. We look forward to continuing to work with you and your colleagues to enable our members and the broader retail community to continue to improve customer satisfaction with this important financing tool that well serves American consumers and benefits our nation's economy. Should you have any questions or need additional information regarding this issue, please contact me or Andrew Szente, director, government affairs, at (703) 600-2033 or by email at [andrew.szente@rila.org](mailto:andrew.szente@rila.org).

Sincerely,

A handwritten signature in black ink, appearing to read "John Emling". The signature is fluid and cursive, with a large initial "J" and "E".

John G. Emling,  
Senior Vice President, Government Affairs