

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

First PREMIER Bank, and PREMIER
Bankcard, LLC,

Plaintiffs,

vs.

Case No. 4:11-cv-04103-KES

Chief Judge Karen E. Schreier

The United States Consumer Financial Protection
Bureau; and Richard C. Cordray,¹
Director of the Consumer Financial Protection
Bureau,

Defendants.

JOINT STATUS REPORT

Pursuant to the parties' Joint Status Report dated December 22, 2011 and the Court's Oral Order dated December 22, 2011, the parties inform the Court of the following:

1. Defendant Consumer Financial Protection Bureau (Bureau) intends to issue a notice of proposed rulemaking (NPRM) proposing to amend 12 C.F.R. § 1026.52(a) so that it does not apply to fees paid prior to "account opening."²
2. The Bureau has begun to work on the NPRM and expects to issue the NPRM during the period between April 1, 2012 and June 30, 2012, if not sooner.
3. The Bureau expects that, if it ultimately adopts a final rule amending 12 C.F.R. § 1026.52(a) in the manner described above, this case will become moot.

¹ Defendant Cordray is substituted for Defendant Geithner pursuant to Fed. R. Civ. P. 25(d).

² On December 22, 2011, the Bureau issued an interim final rule to reflect the Bureau's assumption of authority over Regulation Z. 76 FR 79768 (Dec. 22, 2011). The interim final rule made only technical changes to Regulation Z, such as noting the Bureau's authority and renumbering Regulation Z as 12 C.F.R. § 1026. Accordingly, the provision at issue in this litigation should hereinafter be cited as 12 C.F.R. § 1026.52. Plaintiffs take no position at this time on the accuracy of Defendants' characterization of the interim final rule.

4. With the Court's leave, the parties will file a joint status report upon publication of the NPRM in the Federal Register.

Dated: February 3, 2011

DAVENPORT, EVANS,
HURWITZ & SMITH, LLP

*Pursuant to Local Rule 5.1(B)(5),
Attorneys for Plaintiffs have reviewed
this joint status report and authorized
Attorneys for Defendants to file the notice*

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Respectfully submitted,

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