CUNA
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VIA E-MAIL – regcomments@ncua.gov

October 12, 2007

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Proposed Illustrations for Subprime Loans

Dear Ms. Rupp:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the proposed illustrations that credit unions and other financial institutions may provide to borrowers who are considering subprime loans. CUNA is the largest credit union trade association in this country, and represents approximately 90 percent of our nation's 8,400 state and federal credit unions, which serve over 87 million members.

Summary of CUNA's Comments

- Credit unions are providing valuable assistance to subprime loan borrowers who have been experiencing difficulties meeting their repayment obligations under these types of loans.
- CUNA urges the National Credit Union Administration (NCUA) and the financial institution regulators to continue to emphasize that these disclosures are voluntary, and this should also be clearly communicated to the examiners who will be reviewing each institution's compliance with the subprime loan guidance.
- The regulators should clarify that the use of the proposed illustrations will comply with the consumer protection requirements that are outlined in the recent guidance. This will be helpful for financial institutions should the adequacy of these disclosures be challenged.
- Consumer testing of the proposed illustrations should be conducted. This testing could use the disclosures proposed by the agencies, as well as a sample of actual disclosures that credit unions and other institutions may develop for their own use.
- With regard to the proposed illustrations, we believe the narrative example provides the information more clearly than the illustration that is provided

in chart form. The chart example may be easier to understand if each payment listed for the "2/28" loan includes the interest rate that applies to that payment. The narrative example could be improved by changing the headings to indicate that not all ARM loans will have the characteristics that are described within that heading.

- NCUA and the other financial institution regulators have entitled this proposal, "Illustrations of Consumer Information for Subprime Mortgage Lending." Since this refers to adjustable rate mortgages (ARMs), this implies that all ARMs are subprime, which is inaccurate.

Discussion

CUNA commends NCUA and the other financial institution regulators for issuing these illustrations, or disclosures, that credit unions and other financial institutions may use for purposes of complying with the recent guidance that the agencies issued with regard to subprime loans.

Unlike many other lenders, credit unions in general are not experiencing mortgage portfolio stress. In fact, current evidence suggests that credit unions are not part of the subprime problem – they are part of the solution.

For example, credit union asset quality remains very strong. Credit union delinquencies are near all-time lows and net charge-offs are only slightly below long-term averages. These strong results arise from the fact that credit unions are portfolio lenders who tend to be more conservative than those who sell their mortgages into the secondary mortgage market. Also, unlike other lenders, credit unions are owned by their members and, therefore, are not pressured to maximize profits and shareholder returns.

In addition to strong credit union asset quality, Home Mortgage Disclosure Act statistics indicate that, as compared to other lenders, credit unions are more likely to approve loans to low and moderate-income borrowers. Also, as compared to other mortgage lenders, a higher percentage of total mortgage originations are to low and moderate-income borrowers.

Anecdotal evidence suggests that many credit unions are assisting members who are having problems with the subprime loans that were originated by other lenders. CUNA has heard from many credit unions that they are providing relief to members who are having difficulties in meeting their payments obligations associated with these subprime loans. This may help explain recent data from CUNA's Monthly Credit Union Estimates report, which indicates that credit union first mortgage loan balances grew by 11.5% in the 12-month period ending August 2007.

As for the proposed disclosures, the regulators have noted that these disclosures are entirely voluntary, and we agree that these disclosures should not be mandatory. Although we agree and recognize that the recent guidance on subprime loans emphasizes the need for distinct disclosures for these types of loans, credit unions and other institutions offering certain loans may prefer to tailor this information to take into account specific product offerings and changing market conditions. For this reason, we urge the regulators to continue to emphasize that these disclosures are voluntary and to clearly communicate this view to examiners.

We believe the regulators should also clearly state that the use of the proposed illustrations will comply with the consumer protection requirements that are outlined in the recent guidance. This will be helpful for financial institutions should the adequacy of disclosures be questioned.

With regard to the proposed disclosures themselves, we note that Illustration 1 provides information in a narrative form while Illustration 2 provides similar information in a chart form. Specifically, Illustration 2 provides the payment amounts for both a 30-year fixed rate mortgage and for a "2/28" loan, in which the payments remain constant for the first two years of the loan and then increase each year for years three through five.

We believe Illustration 1 provides the better approach to explaining the circumstances under which payments may increase, as well as urging borrowers to obtain additional information with regard to the specific loan being considered. Our only concern with Illustration 1 is that the headings indicate that all ARM loans will have the characteristics that are described, which is not the case. This can be resolved by changing the word "will" to "may" in these headings. This change will also be consistent with the underlying descriptions, which indicate that not all ARM loans will have these characteristics.

The chart form of Illustration 2 may be easier to understand if each of the payments includes the interest rate that applies to that payment. As proposed, the chart references what the maximum interest rate would be but does not indicate whether that is the rate that applies to the listed payments. Also, for years three and four, the chart indicates that the payments apply "if rates don't change" and for year five indicates that the payment applies "if rates rise 2%." This information would be very confusing for consumers as it does not clarify the interest rate that would apply. It is especially confusing in combination with the information that references a maximum rate. We believe it would be clearer if each payment listed under the "2/28" loan is accompanied by the specific interest rate that would apply to that payment.

Finally, NCUA and the other financial institution regulators have entitled this proposal, "Illustrations of Consumer Information for Subprime Mortgage Lending." Since this refers to ARMs, it implies that all ARMs are subprime, which is inaccurate and should be corrected.

Thank you for the opportunity to comment on these proposed illustrations. If you or other Board staff have questions about our comments, please give CUNA Senior Vice President and Deputy General Counsel Mary Dunn or me a call at (202) 638-5777.

Sincerely,

Jeffrey Bloch
Senior Assistant General Counsel