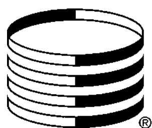


IOWA BANKERS ASSOCIATION

April 16, 2004

Office of the Comptroller of the Currency
Communications Division
250 E Streets, SW.
Public Information Room, Mailstop 1-5
Washington DC 20219
Attn: Docket No. 04-05

Jennifer J. Johnson, Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551
Attn: Docket No. R-1180

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429
Re: EGRPRA Burden Reduction Comment

Regulations Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, NW.
Washington, DC 20552
Attn: No. 2003-67

Re: EGRPRA Regulatory Burden Reduction Comments

Dear Madams and Sirs:

Iowa Bankers Association ("IBA") is a trade association representing nearly 95% of 400+ banks and savings and loan associations in the State of Iowa. We appreciate the efforts of the Office of Comptroller of the Currency, Federal Reserve Board, Federal Deposit Insurance Corporation and Office of Thrift Supervision, "the Agencies," in reviewing the current consumer regulations to identify outdated, unnecessary, or unduly burdensome regulatory requirements pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). We also appreciate the Agencies' recognition and understanding of the challenges faced by community banks in meeting the requirements of the ever-growing number of compliance regulations. In developing our comments contained herein, the IBA invited members of its Compliance Committee to provide suggestions for ways burdensome regulatory requirements could be reduced without jeopardizing consumer protections.

Equal Credit Opportunity Act (Reg. B) - The spirit and intent of Reg. B is to prohibit discrimination based upon one of the nine prohibited basis. The current requirements under Reg. B are far broader and create numerous challenges for creditors.

The recent revisions to Reg. B prohibit lenders from assuming the submission of a joint financial statement constitutes a request for joint credit. Creditors are now required whenever more than one individual applies for credit to have those applicants sign a separate statement of intent to apply for joint credit. This additional documentation requirement is not burdensome when related to consumer credit transactions but becomes very difficult to manage in commercial and agricultural transactions involving two or more borrowers. Regulation B does not require written

applications for business credit.   Such "applications" are often the result of several conversations (including negotiations), the submission of a financial statement(s), and a business plan(s). Further complicating the issue is the working structure of many small businesses made up of individuals who are operating a business jointly but have not legally organized; for example a husband and wife or father and son operating a farm together. Many of these borrowers consider themselves a "partnership" although they are not legally organized as such. Rather than evidencing intent for each application, creditors should be given the latitude to evidence intent for a specific purpose, such as 2004 agricultural operating expenses. Many times business borrowers have unanticipated credit needs and time is of the essence in filling those needs. If a creditor determines the borrowers are creditworthy and the purpose of the loan meets the intent statement previously affirmed, it seems redundant and burdensome for both the applicant and creditor to obtain an additional statement of intent for each application/loan for that intended purpose.

The revisions made to the model credit applications in order to comply with the requirements to evidence intent to apply for joint credit are appreciated. In early September the FRB published revisions in the Federal Register relating to Fannie Mae's Uniform Residential Loan Application (URLA). At that time we assumed that the changes made to the URLA were done to facilitate by the Reg B revisions as well as CIP mandates to collect date of birth as well as Reg. C changes for collection of government monitoring information. Now the indication we are receiving from federal regulators is that the revised URLA does not meet the requirements for evidencing joint applications for credit and that creditors must have residential real estate applicants sign a separate statement. This seems redundant given the number of disclosures and authorizations a home loan applicant already signs at the time of application. The typical residential real estate loan applicant signs the URLA, an authorization statement to allow the lender to order a credit report, a mortgage servicing disclosure statement and very often in face-to-face applications, a good faith estimate, early TIL, appraisal disclosure and an acknowledgement stating the applicant has received these disclosures. After signing all these disclosures, and often more, is there really any doubt who the applicants are or that they intend to obtain credit jointly? A creditor's use of the Fannie Mae or Freddie Mac URLA should be deemed compliant with all application provisions of Reg. B by all the Agencies.

The collection of monitoring information under Reg. B continues to be problematic. Lenders are often confused as to when to collect the data and when it is a violation to collect it. With the growing use of home equity loans and lines of credit in the market place, does it not make more sense to either collect monitoring data for all loans secured by a borrower's principal dwelling or eliminate collection altogether for non-HMDA and small bank CRA reporters? It certainly would lead to less Reg. B violations during exam procedures. The Agencies can be assured if a bank were guilty of discriminatory practices, local consumer groups, state's attorney generals and individual consumers would alert them.

HOME MORTGAGE DISCLOSURE ACT (Reg. C)

The new definition of "refinance" which removes the purpose test will undoubtedly result in the added reporting of many loans whose purpose has nothing to do with home purchase or home improvement. Many previously non-reportable commercial and agricultural loans will now be reportable at the time they are refinanced and retain a security interest in a dwelling.   For example,

a farm loan, which is exempt from HMDA reporting when the farm is being purchased, becomes reportable if the farmland (which contains a dwelling) is refinanced. Obviously, business purpose loans are priced very differently from residential real estate loans. In all likelihood, the data collected on these loans will not be useful to the Agencies during a fair lending review, thus all of the banks efforts to collect and report the data are wasted – a true burden! This is also burdensome for regulators, as they will have to "sort" through the data submitted on the LAR and loan files to determine loan purpose and explain pricing variances on the LAR. Certainly, such reporting does nothing to enhance the quality and utility of the data, nor does it accurately reflect trends in the housing market – a primary purpose of HMDA.

Also problematic are the inconsistencies in reporting loan amounts for home equity lines of credit and home equity loans. Only that amount of a home equity line of credit used for home purchase or home improvement is reportable on the LAR. Whereas, if the same amount of money was financed on a closed-end home equity loan, the entire amount would be reported on the LAR if any portion of the proceeds (even just $1) was used for the purpose of home purchase or home improvement. For purposes of reporting "loan amount," please consider treating both lines of credit and closed-end loans in the same manner and eliminate the confusion.

Rate spread must now be reported on the HDMA LAR if the APR on the loan is above a certain threshold over a comparable Treasury yield. The rate spread calculation for HMDA purposes is not consistent with the rate spread calculation for HOEPA purposes. This too leads to confusion and errors. Rate spread indexes and calculations methods, including rate determination dates, should be consistent in order to promote greater accuracy. A more simplistic approach could be taken and the rate spread reporting could be replaced with reporting of the APR. The APR along with the lien position, property type and purpose codes would provide meaningful explanations for varying rates, be far less burdensome to reporting institutions and would in all likelihood result in a more accurate tool by which consumer advocacy groups and regulators could compare lending institutions or identify abuses within the industry.

The scope of required reporters needs to be revisited. Ten counties in Iowa were added to MSAs as a result of the 2000 census. Nine of those counties have a countywide population of 25,500 or less with the smallest, newest county having a population of just 11,353 persons according to census data. As a result, nearly 50 banks will be first-time reporters for calendar year 2004. Nearly 80% of these banks have assets of less than $100 million, many having assets under $50 million. What value is gained by gathering data from the banks located within these counties? The minimal benefit gained cannot warrant the burden borne by these new reporters.

TRUTH-IN-LENDING ACT (REG. Z) - The purpose behind the Truth-in-Lending Act, to provide consumers with disclosures regarding the total cost and terms of their credit extension, is necessary. However the current approach and disclosure requirements often leave consumers more confused than informed.

Most consumers want to know three things: (1) interest rate; (2) monthly payment; and (3) the total closing costs. The most common comment/question that occurs after sending out an early TIL to a consumer is "I thought your said my interest rate was x%; this disclosure states the APR is y%." The annual percentage rate does not fulfill its intended educational purpose – it confuses consumers and loan officers alike. Provide consumers with the information they need to know to

make an informed decision: the interest rate, the loan term, the monthly payment and total of all payments. Once consumers have this information along with the closing cost information provided on the GFE, let's give them the benefit of the doubt that they can figure out which loan product best fits their financial need.

The recent revisions to Section 32 of Reg. Z have been more problematic than helpful to consumers and have also caused confusion among creditors. If a loan falls into coverage of a "high cost mortgage loan" as defined by this section, the consumer must be provided a 3-day notice prior to *consummation*. *Consummation,* however is not defined in Reg. Z and often is not defined by state law either. Is consummation considered the point at which the borrower signs the note? Or in a rescindable transaction, is it the point at which the transaction is funded? Can borrowers be considered legally obligated on a transaction when they do not have receipt of the funds? *Consummation* needs be clarified under this section to ensure compliance.

Section 32 mortgages are generally rescindable transactions. If the Section 32 disclosure is to be provided three days prior to signing the note, then the borrower at best has a time period of seven days from application to closing. The extended waiting period often time has adverse effects on the borrower, restricting timely access to loan proceeds, potentially resulting in additional expense to the borrower or the potential loss of purchase opportunities. If the Section 32 three-day time frame ran concurrent with the rescission 3-day timeframe, consumers would still be afforded a "cooling off" period and maintain the opportunity to change their mind and rescind the transaction.

Currently the three-day time frame for the Section 32 required notice is not counted in the same manner as the rescission three-day time frame. The Section 32 three-day time frame expires on the third business day, whereas the rescission time frame expires at midnight following the third business day. The inconsistency is confusing for both consumers and creditors.

If a loan is determined to be a high-cost loan under Section 32 of Reg. Z, the creditor must provide borrowers with an additional disclosure which warns they could lose their home if they default on the loan, and also provides additional information including the loan amount, the APR, the monthly payment amount, the fact the rate may go up following closing (if applicable), and whether a balloon payment will occur. These disclosures are included in the final Truth-in-Lending statement provided at closing, the note itself and many times as mortgage clauses as well. Simply put, the disclosure is redundant and duplicative and should be withdrawn from required disclosures.

Also, in regard to HOEPA loans, the explanation for the calculation for "total loan amount" is not clear. Could there not be a simpler definition or amount used for this calculation?

Many of today's consumers are quite savvy and seek out home equity loans and lines of credit as a tax reduction tool. They fully understand that a security interest that is being taken in their personal residences and prefer the product to other types of consumer credit due to the potential tax deductibility of the interest paid and preferable rates and terms often associated with home equity loans. These consumers consider the three-day waiting period a nuisance, not a consumer protection device, and would much prefer to waive their right rather than wait three days for their funds. Given that the rescission rules were intended to protect consumers from unscrupulous financers, the greater majority of which are unregulated, would it not make sense to allow

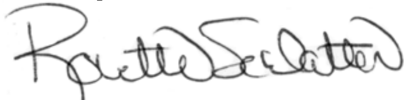
consumers, borrowing from a federally-regulated financial institution, the ability to waive their right to rescission in instances other than a personal bona fide emergency?

NATIONAL FLOOD INSURANCE RULES

Under the Flood insurance rules, when borrowers are using a property located in a special flood hazard area as security on a loan, lenders must provide notice to the borrowers within a "reasonable period of time" prior to closing, advising the borrowers that the property is in a flood plain and flood insurance under the NFIP is required prior to closing the loan. While "reasonable period of time" is not expressly defined, the NFIP guidelines and Agency examiners have interpreted ten days as a "reasonable period" of time. The timeframe is established to protect the customer from losing a loan commitment while obtaining adequate, affordable insurance coverage. The "reasonable period" of time was not however, intended to delay closing once the borrowers have purchased adequate coverage. Currently, there are examiners in the field instructing banks to wait a minimum of ten days from the time notice is provided to the borrower until closing, even when the borrower has insurance coverage in place before the time period has expired. Certainly it was not the intent of the NFIP to delay closings with this "reasonable period of time." Clarification is needed in this area for both creditors and examiners.

Today's community banks are drowning in regulatory red tape, utilizing valuable resources to meet regulatory compliance mandates that could be put to much better use for economic and community development purposes in the communities they serve. Thank you for recognizing this and requesting comments on how consumer lending regulatory burden could be reduced. The IBA applauds your efforts and appreciates your thoughtful consideration of our comments. If you have any questions related to this letter, please feel free to contact me at (800) 532-1423 or at rschlatter@iowabankers.com.

Sincerely,



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