

From: Cynthia Ledford [cledford@plantersfirst.com]  
Sent: Tuesday, April 20, 2004 9:49 AM  
To: Comments OTS  
Subject: EGRPRA Review of Consumer Protection Lending Related Rules

Cynthia Ledford  
1620 16th Ave.  
Cordele, Ga. 31015

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Dear OTS:

As a community banker, I greatly welcome the regulators' effort on the critical problem of regulatory burden. Community bankers work hard to establish the trust and confidence with our customers that are fundamental to customer service, but consumer protection rules frequently interfere with our ability to serve our customers. The community banking industry is slowly being crushed under the cumulative weight of regulatory burden, something that must be addressed by Congress and the regulatory agencies before it is too late. This is especially true for consumer protection lending rules, which though well intentioned, unnecessarily increase costs for consumers and prevent banks from serving customers. While each individual requirement may not be burdensome itself, the cumulative impact of consumer lending rules, by driving up costs and slowing processing time for loans from legitimate lenders, helps create a fertile ground for predatory lenders. It's time to acknowledge that consumer protection regulations are not only a burden to banks but are also a problem for consumers.

Truth in Lending (Federal Reserve Regulation Z)

Right of Rescission. One of the most burdensome requirements is the three-day right of rescission under Regulation Z. Rarely, if ever, does a consumer exercise the right. Consumers resent having to wait three additional days to receive loan proceeds after the loan is closed, and they often blame the bank for "withholding" their funds. Even though this is a statutory requirement, inflexibility in the regulation making it difficult to waive the right of rescission aggravates the problem. If not outright repealed, depository institutions should at least be given much greater latitude to allow customers to waive the right.

Finance Charges. Another problem under Regulation Z is the definition of the finance charge. Assessing what must be included in - or excluded from - the finance charge is not easily determined, especially fees and charges levied by third parties. And yet, the calculation of the finance charge is critical in properly calculating the annual percentage rate (APR). This process desperately needs simplification so that all consumers can understand the APR and bankers can easily calculate it.

Equal Credit Opportunity Act (Federal Reserve Regulation B)

Regulation B creates a number of compliance problems and burdens for banks. Knowing when an application has taken place, for instance, is often difficult because the line between an inquiry and an application is

not clearly defined.

Spousal Signature. Another problem is the issue of spousal signatures. The requirements make it difficult and almost require all parties - and their spouses - come into the bank personally to complete documents. This makes little sense as the world moves toward new technologies that do not require physical presence to apply for a loan.

Adverse Action Notices. Another problem is the adverse action notice. It would be preferable if banks could work with customers and offer them alternative loan products if they do not qualify for the type of loan for which they originally applied. However, that may then trigger requirements to supply adverse action notices. For example, it may be difficult to decide whether an application is truly incomplete or whether it can be considered "withdrawn." A straightforward rule on when an adverse action notice must be sent - that can easily be understood - should be developed.

Other Issues. Regulation B's requirements also complicate other instances of customer relations. For example, to offer special accounts for seniors, a bank is limited by restrictions in the regulation. And, most important, reconciling the regulation's requirements not to maintain information on the gender or race of a borrower and the need to maintain sufficient information to identify a customer under section 326 of the USA PATRIOT Act is difficult and needs better regulatory guidance.

#### Flood Insurance

The current flood insurance regulations create difficulties with customers, who often do not understand why flood insurance is required and that the federal government - not the bank - imposes the requirement. The government needs to do a better job of educating consumers to the reasons and requirements of flood hazard insurance. Flood insurance requirements should be streamlined and simplified to be understandable.

#### Additional Comments

##### Privacy Act:

Community banks have not historically shared customer information with third parties, other than what is needed in the course of doing business. However, they must send the annual notice regardless. This is an expensive and burdensome task on the banks, as well as, confusing for the customers, who still do not understand fully why this annual notice is needed, especially if their bank does not share information and opting out is not required by them. An initial notice to the customer should be sufficient for banks that do not share information rather than sending a mass mailing each year, which says the same thing time after time. The only time the mass mailing of the notice would be required would be if the bank changes its policy or procedures.

#### Conclusion

The volume of regulatory requirements facing the banking industry today presents a daunting task for any institution, but severely saps the resources of community banks. We need help immediately with this burden before it is too late. Community bankers are in close proximity to their customers, understand the special circumstances of the local community and provide a more responsive level of service than megabanks. However,

community banks cannot continue to compete effectively and serve their customers and communities without some relief from the crushing burden of regulation. Thank you for the opportunity to comment on this critical issue.

Sincerely,

Cynthia P. Ledford