



April 20, 2004

Via Email

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
regs.comments@federalreserve.gov
Docket No. R-1180

Public Information Room
Office of the Comptroller of Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
regs.comments@occ.treas.gov
Attention: Docket No. 04-05

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
regs.comments@fdic.gov/

Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
regs.comments@ots.treas.gov
Attention: No. 2003-67

RE: Economic Growth and Regulatory Paperwork Reduction Act of 1996

Dear Ladies and Gentlemen:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin, representing 320 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA appreciates the opportunity to comment on the federal banking regulatory agencies (Agencies) regulatory review pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA).

EGRPRA requires the Agencies to review their regulations at least once every 10 years in an effort to find more streamlined and less burdensome ways to regulate. The comments WBA submits today focus on the second round of regulatory review under the requirements of EGRPRA. Specifically, this review seeks comment on a number of consumer protection regulations including Regulation B, Regulation C, and Regulation Z.

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Many WBA members are bewildered by the sheer volume and frequency of regulatory requirements with which they are constantly bombarded. As one member succinctly stated, “we are astonished and somewhat overwhelmed by the pace and burden of the numerous regulatory changes that institutions have had to deal with in recent days. Aside from the obvious recent additions such as the Patriot Act, HMDA changes (our people had to work on New Year’s Eve to ensure our systems performed correctly) and now FCRA (FACT Act), we are also facing huge compliance issues from the states in the predatory lending arena and the securities regulators on corporate governance issues among others.” Although, the member identifies a litany of areas in which recent regulatory changes have occurred, it only begins to scratch the surface. Therefore, the WBA welcomes this opportunity to address numerous regulatory burdens, including some, which have not been specifically identified in the Agencies’ request.

Disclosures Under Various Consumer Regulations.

In January of this year, the WBA submitted comments in opposition to a proposal that purports to “clarify” the meaning of “clear and conspicuous” consumer disclosures, noting that it would invite litigation, and impose type-size requirements that would create unnecessary financial and operational burdens. In addition, just weeks ago, the WBA submitted comments in opposition to an advance notice of proposed rulemaking that suggested a mandatory short-form model privacy notice.

In both cases, the WBA is not aware of any problems consumers have had that would warrant devotion of financial institutions’ time and money to rework the existing required disclosures or notices. Financial institutions should not shoulder the burden of non-substantive issues, especially given the current number of truly substantive issues and regulatory requirements with which they are required to comply.

Regulation B and Signature Rules.

The WBA is very concerned about the burden created by requiring separate evidence of a person’s intent to apply for joint credit. The Agencies seem to believe that separate evidence, such as a separately signed document or set of initials on an application regarding an applicant’s intent, will remedy the misunderstanding some institutions have of the signature rules contained in 12 CFR 202.7. The WBA disagrees that a separately signed document or set of initials on an application will remedy this misunderstanding. Instead, the Agencies should continue to focus their efforts on guidance documents that supplement training and educational efforts to remedy any misapplication of the signature rules.

Regulation C, CRA and Double Reporting.

The WBA has been made aware of a problem regarding the requirements of Regulation C (which implements the Home Mortgage Disclosure Act) and the Community Reinvestment Act (CRA), which has ultimately created a huge regulatory burden on its members in that certain small business loans and small farm loans must be reported under both Regulation C and CRA. This “double reporting” is caused by a recent change in Regulation C, as described below.

The new definition for “refinancing” under the Home Mortgage Disclosure Act (HMDA) states that if a new loan satisfies and replaces an existing loan; and both existing loan and new loan are secured by a lien on a dwelling, it is HMDA reportable. The purpose test no longer exists.

With this new definition, institutions are required to report business and agricultural purpose loans that are secured by a 1-4 dwelling that were not previously HMDA reportable. Because these loans are for business or agricultural purpose, they have been previously been reported under CRA. Nowhere in the new amended Regulation C is there any reference to double reporting of loans under HMDA or CRA. And the WBA recognizes the huge regulatory burden double reporting imposes on its members that make such loans.

The WBA and its members are concerned that double reporting will also result in information which is inaccurate, skewed or out right false, such as:

1. Under CRA the census tract is where the business is located;
2. Under HMDA the census tract is where the dwelling is located;
3. If an institution reports according to the new HMDA “refinance” definition, these types of loans will now have two different census tracts (a processing nightmare) and HMDA total dollars will now have commercial loan dollars, in residential census tract numbers.

In addition, the WBA is worried that this double reporting burden/problem will negatively impact CRA evaluations of those institutions that make such loans. And, at this time, the WBA is neither aware of any steps the Agencies have taken to notify institutions about this reporting issue nor any steps to remedy this problem.

The WBA believes that “double reporting” does nothing to achieve the purpose of HMDA— to help determine whether financial institutions are serving the “housing” needs of their communities, and conversely does a great deal to undermine the accuracy of the data collected for both HMDA and CRA. Thus, given the regulatory burden of

double reporting on these loans and the inaccurate data it produces, the WBA strongly urges the Agencies to clarify the definition of “refinance” as it applies to business purpose loans in Regulation C.

Conclusion.

The compliance burdens financial institutions shoulder are voluminous and far reaching; therefore, the Agencies must carefully consider the impact regulations have on the various aspects of these institutions’ business and systems. Institutions invest tremendous amounts of time and effort in their compliance programs and they diligently work to keep up with new laws and regulatory changes. And while there arguably are compelling reasons for certain regulatory requirements, there are equally as many compelling arguments against other regulatory requirements, as is evidenced above. Simply put, the regulatory burden on financial institutions is overwhelming and there does not seem to be enough recognition on the part of those creating more regulations of the burdens and costs institutions must face to comply. In the end, the added costs created by these burdens are passed on to consumers, so, as one member put it “regulators should be careful to only impose regulations that, in the end, provide real value to the banking public.”

The WBA, again, appreciates the opportunity to comment on these very important matters.

Sincerely,

Kurt R. Bauer
Executive Vice President/CEO