



April 20, 2004

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552

Attention: No. 2003-67

RE: EGRPRA Review of Consumer Protection Lending Related Rules

Dear Sir or Madam:

The North Dakota Bankers Association (NDBA) welcomes this opportunity to support the agencies' ongoing regulatory effort to effectively analyze and address regulatory burden for financial institutions. NDBA is a trade association with approximately 100 state and national banks and federal savings associations as members. NDBA members operate offices in the largest and smallest communities in North Dakota and work hard to provide our citizens with a broad range of financial products and services. Without exception, bankers tell us the burden of complying with so many federal consumer regulations is real, and expensive, and that it diverts monetary and human resources away from the banks' core mission of serving customers in a manner which meets their financial needs safely and soundly. Most bankers want to reduce regulatory burden so there is more time and money to spend on customer service, not to be relieved of a responsibility to treat customers justly.

In North Dakota bank customers are the neighbors of their bankers. Furthermore, North Dakota bankers experience strong competition for each customer's business. If banks regard customers in a manner which is unfair, or has a casual attitude about customers' rights, those customers will migrate to financial service providers who treat them better. Bankers have strong incentives to follow consumer protection laws and regulations and very few incentives to intentionally violate them. We ask you to regard bankers as being "innocent until proven guilty" as you consider means by which to reduce the burden of regulation on financial institutions.

### **Equal Credit Opportunity Act (Federal Reserve Regulation B)**

Recently, the Federal Deposit Insurance Corporation issued a new Regulation B guide for bankers. Why? Because this agency felt bankers needed detailed assistance to comply with and apply a complex regulation! Equal credit opportunity shouldn't be so complex.

**Signatures of Spouses (Business Credit).** Recently Reg B was changed to require a married couple's application for joint business credit to be documented by the physical signatures of both spouses even though an application for business credit isn't required to be in writing. This requirement for "documentation" that the bank isn't "breaking the law" means our bankers can no longer extend credit to a husband and wife partnerships (such as many farm operations are) unless both "partners" have signed documents to verify they seek joint credit. Frankly, this type of requirement is profoundly irritating to customers and bankers alike. It does nothing discernable to increase equal credit opportunity, and only increases paperwork and effort to document compliance.

**Adverse Action Notice Requirements.** The rules that trigger a requirement for an adverse action notice should be simplified and made clearer, particularly regarding a bank's effort to offer a customer a loan which varies from terms requested in the original application. When a bank issues an adverse action notice when a credit transaction with the customer remains under consideration, the customer is confused and frustrated and, to his detriment, may feel driven to less regulated lenders for service.

### **Regulation Z, Truth in Lending**

**Finance Charges/ APR.** We urge you to consider every possibility for simplifying Regulation Z. Bankers can not accurately calculate a finance charge and APR without a computer program or advanced degree in mathematics and neither bankers and consumers understand the calculation. The complexity of Regulation Z and its finance charge/APR calculations increases errors and makes it less likely that APRs from different lenders will, in fact, be comparable and useful to consumers who are "shopping around" for the best terms.

**Right of Rescission.** We also believe it is past time to re-evaluate the three-day right of rescission. Consumers perceive this "right" to impede their access to loan proceeds and virtually never rescind a covered transaction within the mandatory waiting period. We recognize that the right of rescission is in the Truth in Lending Act itself. However, we urge you to consider whether and how Regulation Z could be amended to allow customers to make an informed waiver of their right to rescission.

### **Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)**

**Exemption Thresholds and Data Collection Requirements.** The threshold for subjecting banks to HMDA data collection requirements should be substantially increased and all current and future data collection requirements should be subjected to a stringent cost/benefit analysis. Regulators must recognize that continued expansions of this type of data required to be collected and enhanced detail for reporting increase banks' costs and costs errors. Since the costs are substantial, the consumer benefit should be required to be proved, not presumed, and equally substantial.

We realize neither banks nor regulators have an easy task when it comes to implementing consumer protection statutes. This task will be made easier if every regulation is reviewed to make sure it is written in language that is clear and concise and so that it can be understood by financial institutions and examiners alike. We also urge an examination of the regulations for the express purpose of eliminating paper and paperwork. Requirements for documentation in the form of additional paperwork are out of step with current technologies and, increasingly, consumer expectations about being able to complete a whole transaction (from inquiry to consummation) on-line and without signing any paper.

Finally we suggest that each agency consider its own experience with each regulation which is be reviewed at this time. It is the agencies which have the cumulative data from which to determine particularly troublesome areas of compliance or each regulation. Bankers want to be in compliance with all applicable regulations. If there are trouble spots which occur across a reasonable broad spectrum, then those are areas which should receive special scrutiny because they must be unclear and too complicated. We note others are also suggesting the agencies develop a compendium of regulations and the products to which they apply. That is a sound suggestion for improvement and one which we also endorse.

**NDBA appreciates the industry with which the agencies are pursuing this initiative and urges to be viewed banker comments for changes from the perspective of the banker who wants 1) to efficiently serve his customers' financial needs and, at the same time 2) to comply with the governing laws and regulations.**

Sincerely Yours,

NORTH DAKOTA BANKERS ASSOCIATION



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Executive Vice President



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