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April 15, 2004

LEO THRASHER
VICE PRESIDENT

Regulations Comments, Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, NW
Washington, D.C. 20552

Attention: No. 2003-67

Dear Sir or Madam:

We appreciate the opportunity to comment on the regulatory burden that our community bank struggles with today. Our community bank excels at developing the trust and confidence of our customers. However, we now spend increasing amounts of time and resources to adhere to the banking regulations to the detriment of our customers. These regulations increase the cost of providing service to our customers. The regulatory burden of any one regulation is small, but the cumulative effect is staggering. The regulations now cause many consumers to seek help from predatory lenders as the community bank is so restricted in its activities that it is difficult to provide timely services to consumers. The following outlines some of the problems created by regulatory rules:

Truth in Lending (Federal Reserve Regulation Z)

1. *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 If not outright repealed, depository institutions should at least be given much greater latitude to allow customers to waive the right.
2. *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.

3. *Credit Card Loans.* Resolution of billing-errors within the given and limited time frames for credit card disputes is not always practical. The rules for resolving billing-errors are heavily weighted in favor of the consumer, making banks increasingly subject to fraud as individuals learn how to game the system, even going so far as to do so to avoid legitimate bills at the expense of the bank. There should be increased penalties for frivolous claims and more responsibility expected of consumers.

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.

1. *Spousal Signatures.* Another problem is the issue of spousal signatures. The requirements make it very difficult for banks located in community property states. Especially when state community property laws do not clearly define signature requirements. This leaves the banker facing a compliance issue clashing with a safety and soundness issue and wondering, when a default situation arises, will the bank be able to enforce collection actions.
2. *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.
3. *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.

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

1. *Exemptions.* The HMDA requirements are the one area subject to the current comment period that does not provide specific protections for individual consumers. HMDA is primarily a data-collection and reporting requirement and therefore lends itself much more to a tiered regulatory requirement. The current exemption for banks with less than \$33 million in assets is far too low and should be increased to at least \$250 million.

2. *Volume of Data.* The volume of data that must be collected and reported is clearly burdensome. Ironically, at a time when regulators are reviewing burden, the burden associated with IIMDA data collection was only recently increased substantially. Consumer activists are constantly clamoring for additional data and the recent changes to the requirements acceded to their demands without a clear cost-benefit analysis. All consumers ultimately pay for the data collection and reporting in higher costs, and regulators should recognize that.

Certain data collection requirements are difficult to apply in practice and therefore add to regulatory burden and the potential for error, e.g., assessing loans against HOEPA (the Home Owners Equity Protection Act) and reporting rate spreads; determining the date the interest rate on a loan was set; determining physical property address or census tract information in rural areas, etc.

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.

It would be much easier for banks, especially community banks that have limited resources, to comply with regulatory requirements if requirements were based on products and all rules that apply to a specific product were consolidated in one place. Second, regulators require banks to provide customers with understandable disclosures and yet do not hold themselves to the same standard in drafting regulations that can be easily understood by bankers. Finally, examiner training needs to be improved to ensure that regulatory requirements are properly and uniformly applied.

The sheer number and complexity of the regulatory requirements facing the community banking industry today severely taxes the resources of a community bank. We need help immediately to forestall the continued loss of many fine community banks and the loss of personal service to many small businesses, customers, and communities. Community banks understand the special circumstances of the local community and provide a more responsive level of service than the megabanks. However, community banks need relief from the crushing burden of regulations to order to have a level playing field with the megabanks and provide a choice for millions of businesses and consumers. Thank you for your consideration of these comments.

Sincerely,



Leo Thrasher
Vice-President