February 6, 2009

Ms. Jennifer J. Johnson, Secretary
Attention: Comments
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue
Washington, DC 20551

RE: Regulation Z Proposal, Docket No. R-1340

Dear Ms. Johnson:

We appreciate the opportunity to comment on the revisions to Regulation Z due to implementation of the Mortgage Disclosure Improvement Act of 2008 (MDIA). The MDIA will require early TIL disclosures for mortgage loans secured by dwellings other than the consumer's principal dwelling and will require waiting periods between the time when disclosures are given and consummation of the transaction. Specifically, the delivery of the TIL disclosures would have to occur at least seven business days before consummation of the transaction. If the annual percentage rate changed beyond the tolerance allowed by the regulation (for example, due to loan term changes), corrected disclosures must then be given and consummation cannot occur for three additional business days.

A timing example is shown in the proposal whereas a creditor that is only open Monday through Friday delivers a disclosure on June 1 would have to wait until June 10 (seven business days, not including Saturday) to close the loan. Whereas, a creditor who is open seven days a week and delivers the disclosure on June 1 could close the loan 2 days earlier on June 8. If this proposal is finalized with no changes, this would be a huge disadvantage to community banks that are generally only open five days a week. At least everyone has a fair playing field currently in being able to close loans rather quickly with no timing requirements (other than right of rescission periods, when required, that all creditors must follow).

There appears to be inconsistency in the timing requirements for redisclosures when the APR is outside the allowed tolerance levels. According to the proposal, the consumer must "receive" the corrected disclosures no later than three business days before consummation. If the disclosures are mailed to the consumer, the consumer is deemed to have received the disclosures three business days after they are mailed. The example given in the proposal for the redisclosure states if the creditor places the disclosures in the mail on Thursday, June 4, the disclosures are considered received on Monday, June 8 and consummation may occur any time on or after

Thursday, June 11. This example appears to include Saturday as a business day and not sure if this is accurate since most financial institutions are not open for business on Saturday (prior example did not use Saturday as a business day). The example would be more accurate and consistent with the other example above to show Tuesday, June 9 and Friday, June 12, respectively. As stated, the timing requirement for the redisclosure is inconsistent with the timing of when the initial disclosure is sent. Timing of the seven business day consummation rule starts when the initial TIL disclosure is "given or placed in the mail" whereas the timing for redisclosures cannot occur until three business days of the consumer "receiving" the disclosures. In 99.9% of the time, a revised disclosure will not be given to a consumer in person. This just delays the closing even more since a financial institution will have to wait 6 additional business days. We are not even sure if the timing requirement for redisclosures as noted is the same as for timing of other sections of Regulation Z such as higher-cost mortgages. It certainly would be extremely burdensome to have different timing requirements for different sections of the same regulation.

So if we understand the timing rules of the proposal, the following is an example of a $15,000 home equity loan to install a pool for a consumer that will be collateralized by the consumer's principal dwelling:

- June 1 – Lender receives the home equity application
- June 4 – Initial TIL disclosure mailed to consumer (must occur within 3 business days); if no redisclosure necessary, then loan cannot close until June 15
- June 12 – Consumer wants to change terms and increases the loan amount to $18,000, which may put the TIL disclosure APR out of tolerance (or loan closer discovers upon printing the loan closing package that the terms changed and APR out of tolerance); lender immediately mails a revised TIL disclosure to consumer (since consumer is most likely not in person at the bank where the disclosure can be hand-delivered)
- June 17 – Assumed date consumer receives revised TIL and must wait 3 additional business days to close
- June 22 – Loan can close but must wait an additional 3 business days before consumer can receive funds due to the right of rescission rules
- June 26 – Borrower finally receives the loan funds so he can pay the pool company to start construction

So, essentially a small $18,000 loan to improve a property could take up to 26 days—nearly four weeks—for the borrower to have funds available!!! Our bank can generally close these types of loan on average within 5 business days but now must wait nearly a month. **We don't understand why in this day and age of advanced technology that the Federal government is moving backwards and making it extremely difficult for borrowers to close loans in a timely manner**. What about those borrowers that have deadlines to meet based on sales contract provisions? Will consumers have to suffer with losing escrow deposits if they are burdened by the government's rules that mortgage loans can't be closed in a timely manner any longer? This is not considered a bona fide emergency—or is it??

The proposal states that a consumer may modify or waive the timing requirements for the early disclosures when the consumer determines that the credit extension is needed to meet a bona fide

personal financial emergency. In our experience, there are so few loans that ever meet this requirement. With the stiff penalties that can occur for right of rescission errors (borrower can rescind loan for up to three years after consummation), this puts lenders under extreme pressure to ensure that all of the aforementioned timing requirements are followed to the letter—or face exposure from lawyers just waiting to sue banks for any minor errors committed under TIL when closing loans! We've heard so many complaints from borrowers ever since right or rescission rules were implemented and they don't understand why they can't receive their moneys at closing. Now, we have to tell them that it could be up to two to four weeks before they can receive their funds! Borrowers should have the right to receive funds at closing, and it is probably about time that the Federal Reserve loosens the restrictions in this area. In our opinion, a borrower should not have to have a bona fide financial emergency and can request in writing that the waiting period and rescission periods are waived, sign the form, and give the happy borrower his money in a timely fashion.

In the "Reasons for the Proposed Rule," it states that "Congress enacted the TILA based on findings that economic stability would be enhanced and competition among consumer credit providers would be strengthened by the informed use of credit resulting from consumers' awareness of the cost of credit." Where will the economic stability and competition be enhanced when borrowers can't get their loan funds until almost a month after application! It is only rarely a sophisticated borrower who might approach more than one institution to obtain initial good faith estimates and TIL disclosures for comparison purposes—and they certainly don't need a few weeks to do this, especially if they want to close a mortgage loan in an expedient manner. You need more education for consumers on how to avoid predatory lenders—not increasing the time it takes to close a loan. This is just plain common sense.

In a nutshell, we strongly urge the Federal Reserve to NOT finalize this proposal and let community banks provide good customer service and loans to borrowers as it is our mission to. With the current economic crisis and the daily news that banks are restricting lending, finalizing this rule will not make the situation any more easier for borrowers—and makes it more burdensome for banks to comply as well. Why try to fix a system that is not broken. There is no benefit to anyone with these proposed revisions – consumers will have to wait longer to close loans and banks will have to deal with the compliance repercussions.

If it comes down to it and this rule is finalized, our bank may just stop making fixed-rate home equity loans since a borrower could essentially close a home equity line of credit (HELOC) within a few days since no timing requirements apply for those types of loans other than the right of rescission. In this case, borrowers may end up paying more in interest for these types of loans since they often are variable rates utilizing index values such as the Wall Street Journal prime rate. Is that good for the consumer? This proposed rule will essentially dry up funds for home equity loans since banks will refuse to make them due to the onerous timing requirements. Comments are requested on whether the timing requirements for HELOCs should also be changed. NO, NO, NO! The Federal government is making is too difficult to originate residential mortgage loans any longer that banks are just going to stop originating home loans—PERIOD. With the new higher-priced mortgage loans becoming effective October 10, 2009, we are seriously thinking about not making those types of loans due to the required escrow provisions. So those lower-income manufactured home borrowers that are so prevalent in

Florida will have a very difficult time finding financing due to most of these loans probably being considered higher-priced under the revised TIL provisions and banks refusing to make them. Just more business for all the predatory and payday lenders in our opinion, which is what these rules were supposed to alleviate. Community banks did not cause the predatory lending situations but yet we are having to pay dearly now with extremely burdensome regulations.

The effective date of these revisions is July 30, 2009. Systems have to be updated, procedures revised, training performed, etc. in order to implement the TILA revisions. Since the final revisions will only be available shortly before July 30, 2009, this does not give banks and loan software companies enough time to put the revisions into place. We kindly request that the effective date be changed to at least six months to one year after publication in the Federal Register if this unnecessary regulation is finalized.

Finally, we have to laugh at the Paperwork Reduction Act estimates. The Federal Reserve estimates that it would take a lender, on average, 8 hours (one business day) to update their systems to comply with the proposed disclosure requirements. Obviously whoever came up with this statistic does not have an IT degree. For companies that produce lending software, this takes months of planning since one change such as timing requirements can affect so many other parts of the program. No cost of compliance was even estimated, which essentially will be in the tens of millions of dollars based on software changes, training, updated procedures, and the like for all regulated financial institutions. The proposal even states in the "Projected Reporting, Recordkeeping, and Other Compliance Requirements" section that "To comply with the revised rules, many small entities would be required to modify their procedures for making credit disclosures for dwelling-secured mortgage transactions. The precise costs to small entities of updating their systems and disclosures are difficult to predict. These costs will depend on a number of unknown factors, including, among other things, the specifications of the current systems used by such entities to prepare and provide disclosures. The Board believes that these costs will not have a significant economic effect on small entities." We strongly disagree that it will not have an economic effect on small community banks that often don't have the resources necessary to implement these types of onerous rules.

We sincerely hope you take these comments into consideration and not revise these rules as proposed. Thank you for your attention to this important issue.

Sincerely,

Cheryl Nakashige, VP
Compliance Officer
Bank of Central Florida
Lakeland, FL
Cheryl.nakashige@bankofcentralflorida.com