February 8, 2009

Ms. Jennifer Johnson
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Docket No. R-1340
Proposed Changes to Reg. Z to Implement the Mortgage Disclosure and Improvement Act

Dear Ms. Johnson,

Iowa Bankers Association (IBA) is a trade association representing over 350 banks and savings and loan associations operating in the state of Iowa. We appreciate this opportunity to comment on the proposed amendments to Regulation Z meant to implement the Mortgage Disclosure Improvement Act. The majority of our member banks are small or intermediate small banks for Community Reinvestment Act (CRA) purposes that originate, portfolio and service the majority of their mortgage loans. Most of these banks offer three, five, or seven-year adjustable rate mortgage (ARM) or balloon mortgage loans. Due to competitive forces, however, many of our members now also offer longer term, fixed rate loans they originate and sell to secondary market investors after loan closing. Only a small percentage of these secondary market loans qualify as "sub-prime loans" and few, if any, of our members have entered into the nontraditional mortgage loan product market.

In developing our comments contained herein, the IBA invited its membership to respond to questions posed in the proposed rulemaking. Our membership is comprised of bankers from around the state, representing institutions of various charters, asset sizes, product mixes and community demographics.

We preface our comments by first noting we acknowledge given the tightly scripted statutory language, the Federal Reserve Board (Board) has limited flexibility in drafting implementing regulations. Therefore, our comments are limited to four issues.

Waiver of Waiting Period

First, the Board has requested comment on the consumer's right to request a waiver of waiting period before consummation as provided in §226.19(a)(3). Specifically the Board has requested whether procedures should be more or less flexible than existing procedures for modifying or waiving the rescission right. The proposed comment explains that whether a bona fide personal financial emergency exists would be determined by the facts surrounding individual circumstances. The commentary then provides the example of an imminent sale of a consumer's home as part of a foreclosure as a valid "personal bona fide financial emergency."

We respectfully request the Board provide greater flexibility for waiving the waiting period related to the delivery of the early TIL than provided in waiving the right to rescission; particularly in refinance transactions given the consumer still retains the right to stop the transaction during the three-day rescission waiting period. The combined waiting periods result in a minimum of a ten-day waiting period for refinance transactions before the consumer has access to borrowed funds. Many consumers will be frustrated and view the waiting period as an unnecessary and unwarranted delay, not as an opportunity to review their loan terms or shop for other credit options.

We also ask the Board refrain from expounding on a series of circumstances that could be considered "bona fide personal financial emergencies." Past experience has shown when such examples or lists are provided in the regulation or commentary, examiners often utilize the list not as representative examples, but rather as an all-inclusive list of permissible exceptions, questioning the validity of other "personal bona fide personal financial emergencies" the consumer may be experiencing. Many creditors report they don't consider rescission waiver requests (short of state or federal natural disasters such as flooding or tornados) as such requests are routinely scrutinized and subject to second-guessing by their regulators rather than accepted based on the borrower's stated emergency and creditor's review of the statement and circumstances. Thus, we ask that creditors be given the ability to rely on the consumer's request for waiver based on the consumer's written request detailing their bona fide personal financial emergency.

The proposal indicates the consumer's personal emergency must be "met" before the end of the required waiting period. The commentary language appears to indicate the creditor obtain some sort of evidence an adverse consequence will occur if the waiting period is not waived. This places a tremendous additional regulatory burden on the creditor and opens the debate of what constitutes adequate evidence that the emergency must be "met" before the end of the waiting period. The requirement could also result in unintended harm to consumers who could not provide adequate evidence to their creditor their personal bona fide emergency had to be "met" before the end of the waiting period. Thus, we request the Board clarify that the creditor may rely on the borrower's assertion via his/her written statement of the need for immediate access to the loan proceeds due their personal bona fide personal emergency.

Redisclosure Requirement

§226.19(a)(2) requires that creditors make new disclosures if the annual percentage rate at consummation differs from the estimate originally disclosed by more than 1/8 of 1 percent in regular transactions or ¼ of 1 percent in irregular transactions as defined in footnote 46 to §226.22(a)(3). We assume that redisclosure would not be required if the creditor overstated the APR since the consumer is not harmed and §226.22 makes reference to 226.18(d)(i), which provides the finance charge is considered accurate in a mortgage transaction if it is overstated by any amount. However as currently drafted, the proposed revisions do not address this specifically. Thus, we request in order to provide consistency §226.22(a)(4)(ii)(A)'s reference to §226.18(d)(i), it be clarified in the commentary that an overstatement of the APR in any amount does not trigger redisclosure.

Redisclosure Delivery and Timing

Our third comment is related to the delivery and timing of revised disclosures if the disclosure provided within three days of application is discovered to be inaccurate (as found in §226.19(a)(3)). The redisclosure provision requires that the revised disclosure

must be "received by the consumer" at least three business days prior to consummation. The provision also requires that the disclosure is considered "received by the consumer" three business days after it is mailed. As it is currently drafted, the commentary does not provide redisclosure delivery methods other than face-to-face delivery or delivery by U.S. Postal Service. We would ask the Board provide further clarification regarding when the revised disclosure is considered "received by the consumer" if it is delivered electronically via e-mail or fax. Our member banks indicate these delivery methods are often used at the request of consumers who have come to rely on electronic communications.

Mandatory Effective Date

Our fourth and final comment is related to the mandatory compliance date of the proposed revisions to Regulation Z implementing the MDIA. If it is within the authority of the Board, we urge the Board to coordinate mandatory compliance of these revisions with the final revisions Regulation Z for "higher priced mortgage loans" effective October 1, 2009. To say that our member banks are overwhelmed with the recent flurry of new and revised regulatory requirements would be an understatement. Our members are working diligently with their vendors to prepare for the October 1, 2009 mandatory effective date for the previously finalized revisions to Regulation Z as well as the January 2010 mandatory effective date for the RESPA revisions. The costs and process changes associated with implementing all of these changes are enormous – reprogramming and software update costs, development and production of new disclosures, training of personnel, and implementation of additional internal review and control procedures. Quite frankly, to require creditors to make these changes within a three to four-month timeframe (assuming this rule is finalized in March or April and mandatory by July 29, 2009) is not reasonable and will in all likelihood, result in failure to comply within the required timeframe.

Unintended Consequences

Many of our small community banks have indicated as result of the additional regulatory requirements, they will scale back mortgage lending activities to very basic products and only make loans to those borrowers with the strongest credit quality in an attempt to avert additional disclosure requirements, prohibitions and penalties for noncompliance. Our concern is the unintended consequence of increased regulatory requirements may be that consumers who have the greatest credit needs may not find credit available to them from their local community bankers who they know, have personal relationships with and can trust. Rather, their only source of credit will be the less regulated entities that had a major role in creating the current mortgage crisis.

Thank you for the opportunity to comment on this proposal. We appreciate your consideration of our comments and suggestions. If you have questions related to this letter, you may contact me at the Iowa Bankers Association, 515-286-4300 or via e-mail, rschlatter@iowabankers.com.

Sincerely,

Ronette Schlatter, CRCM
Senior Compliance Coordinator