C U N A
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Ms. Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserv e System
20th Street and Constitution Avenue, NW
Washington, DC 2 0 5 5 1
Re: Docke t No. R-134 0 - Proposed Rul e to Amend the Regulation Z Mortgage
Loan Disclosure s

Dear Ms. Johnson:

The Credit Union National Association (C U N A) appreciates the opportunity to comment on the Federal Reserv e Board's (Board's) propose d rul e that will revis e the Regulatio n Z disclosure requirements for mortgage loans. Thes e are specific changes to implement provisions of the Mortgag e Disclosur e Improvement Act (M D I A), which was enacted this past July and amends certain provisions of the Truth in Lending Act (T I L A). C U N A represents approximately 90 percent of our nation's 8,200 state and federal credit unions, which serv e approximately 92 million members.

Summary of C U N A's Comments

- Th e proposed rul e will allow a consumer to modify or waive the timing requirements for the loan disclosures if due to a bona fide personal financial emergency. C U N A urges the Board to provide significant, additional clarification as to the situations that may qualify under this exception and to limit these to unusual and unforeseeable circumstances.
- Unde r the proposal, creditors will be required to provide corrected disclosures with a revised annual percentage rate (APR) if there are any changes that result in the APR being inaccurate beyond certain tolerances. W e suggest that this timing requirement not apply if the A P R is being reduced.
- C U N A urges the Board to use one definition of "business day" that is consistent for all of these disclosure provisions, instead of the two definitions that are included in the proposed rule.
- C U N A does not believe home equity lines of credit (H E L O Cs) should be

subject to these or similar timing requirements, especially for the requirements that apply to APR disclosures.

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Discussion

The MDIA requires creditors to mail or deliver good faith estimates of mortgage loan costs within three business days after receiving the application for the loan and before any fees are collected, other than a reasonable fee for obtaining a credit report. These early disclosure provisions are consistent with the Board's recent final rule that amends the Home Ownership Equity Protection Act, although the MDIA broadens this requirement to include all dwellings, such as second homes.

The proposed rule incorporates these provisions and also implements additional requirements that were included in the MDIA. Under the proposal, creditors must wait at least seven business days after they provide the early disclosures before closing the loan. Creditors must also provide corrected disclosures with a revised APR if there are any changes that result in the APR being inaccurate beyond certain tolerances, which will generally be 1/8 of 1 percent. These disclosures must be received by the consumer at least three days before the loan closing, and the consumer will have been considered to have received these disclosures three business days after they are mailed by the lender.

As for the seven-day and three-day timing requirements, as described above, the proposed rule will allow a consumer to modify or waive the timing requirements for the loan closing if due to a bona fide personal financial emergency that must be satisfied before the end of the waiting period. We appreciate that the Board has provided an impending foreclosure as a possible example of a "financial emergency," which we certainly believe is reasonable, but we urge the Board to provide significant, additional clarification as to other situations that may also qualify and to limit these to true emergencies. For example, the mere need to meet a deadline for a significant expense, such as a tuition payment, would not appear to be a financial emergency, especially if the payment deadlines are known well in advance.

In our view, the "financial emergency" exception should be limited to unusual and unforeseeable financial circumstances. A list of examples from the Board, in addition to the impending foreclosure, would be very helpful provided it is clear that other situations not on the list may also qualify, assuming they meet the broad parameters that are outlined in the rule. Furthermore, the burden should be on the borrower to provide an explanation, in writing, of a circumstance that may qualify as a "financial emergency" to the lender, as opposed to the borrower signing a statement that is prepared by the lender. We believe these parameters for exercising the "financial emergency" exception are needed to both ensure that the right of cancellation is preserved for the borrower and to protect lenders who

may be challenged if they grant a modification or waiver from these timing requirements.

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As described above, creditors must provide corrected disclosures with a revised APR if there are any changes that result in the APR being inaccurate beyond certain tolerances. We suggest that this timing requirement not apply if the APR is being reduced. While we certainly agree that a new disclosure should be provided in these circumstances, it should not be necessary to delay the closing of the loan in situations in which the correction benefits the borrower.

We are also concerned that the proposal includes two definitions of "business days." For the general disclosure provisions, "business day" is defined as any day in which the lender's office is open. For the corrected disclosure provisions, it is defined as all days except Sundays and specific Federal holidays. This will often lead to differences for those lenders who are either open on Saturdays or closed on State holidays.

We urge the Board to use one definition that is consistent for all of these disclosure provisions. Furthermore, we believe the definition of "business days" should be the same for all of the Regulation Z provisions and these should also be consistent with the disclosure provisions of the Real Estate Settlement Procedures Act (RESPA). A consistent definition will help lenders comply with all of these timing requirements.

The proposal will require that the following statement be included with these disclosures: "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application." We suggest that the words "loan transaction" replace the word "agreement," since the agreements are not signed until settlement, which occurs at a later date.

Although the proposal will not affect HELOCs, the Board has requested comment as to what the timing requirements should be for HELOC disclosures. We do not believe HELOCs should be subject to these or similar timing requirements, especially for the requirements that apply to APR disclosures. In general, APRs for HELOCs are variable, and the rate may change in between the time the disclosure is made and the settlement date. In these situations, we do not believe it should be necessary to delay settlement if the rate were to change from the time the disclosure is initially made, assuming the underlying index and margin remains the same. Consumers often apply for HELOCs because they need the funds for specific purposes within a short period of time and lenders are often able to accommodate these needs. Consumers are informed and understand that the APR for a HELOC will change on a frequent basis. Delaying the transaction because of these expected changes in the APR will not benefit consumers or lenders in these situations.

Thank you for the opportunity to comment on the proposed revisions to the Regulation Z disclosure requirements for mortgage loans. If you have questions about our comments, please contact Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 638-5777.

Sincerely,
Jeffrey P. Bloch
Senior Assistant General Counsel