



February 9, 2009

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW.
Washington, D.C. 20551

RE: Regulation Z's Mortgage Disclosure Requirements

Dear Ms. Johnson:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am responding to the request for comments by the Board of Governors of Federal Reserve System (Board) regarding the Board's proposed rule to amend Regulation Z to implement the Mortgage Disclosure Improvement Act of 2008 (MDIA), which was a component of the Housing and Economic Recovery Act of 2008 (HERA).

NAFCU appreciates the Board's efforts to assess public views on its implementation of the MDIA.

General Comments

The MDIA, enacted on the same day that the Board issued its final rule amending Regulation Z's provisions on mortgage loans, amends the Truth in Lending Act (TILA) by expanding the circumstances where early mortgage loan disclosures (early disclosures) are required to be provided. The statute adds that lenders must provide early disclosures on all mortgage loans secured a dwelling.

We strongly urge the Board, especially in the current economic environment, to take full consideration of the cost associated with increased regulatory requirements. Additional regulatory burden should not only always be evaluated with compliance cost in mind, but also the necessity and effectiveness of the increased regulation. We are not convinced, for example, that the MDIA's added requirement that "early disclosures" are provided for any extension of credit secured by a dwelling, justifies the cost and regulatory burden on lenders, especially small institutions such as credit unions.

NAFCU is mindful that the Board cannot undo, by regulation, what Congress did by statute. As a prominent body, however, the Board may advise Congress on the practical implications of cost and burden that laws and regulations, such as the MDIA and the implementing proposed rule, have on lending institutions such as credit unions, as well as the extent to which regulatory changes are practical and necessary.

Good Faith Estimate – “Business Day”

Under the proposed rule, credit unions would be required to provide a good faith estimate of all mortgage loans within three business days of receipt of the loan application. The proposed rule would also require that this disclosure be provided at least seven business days before the consummation of the loan. If the credit union provides corrected disclosures as a result of modifications to the good faith estimate, the loan may not be consummated until at least three business days after provision of the corrected disclosure.

Notably, the definition of business day varies depending on which of the three requirements are involved. For the initial good faith estimate provision requirement as well as the seven day pre-loan consummation requirement, the proposed rule would define “business day” as “a day on which the creditor’s offices are open to the public for carrying on substantially all of its business functions.” For purposes of providing corrected disclosure, a business day would be “all calendar days except Sundays and specified legal holidays.” Thus, credit unions must implement multiple definitions of the statutory term “business day” in their lending practices.

NAFCU recommends that the Board adopt a definition of the term that would apply across the three different circumstances, and also one with which lenders can easily comply. Specifically, we believe that the Board should adopt the following definition: Monday to Saturday, except specified legal holidays. Adopting one definition that is easy to understand will make it simpler for credit unions to comply with and consumers to understand their rights. Multiple definitions of the same term, conversely, would have the opposite effect.

Waiver

The proposed rule would also allow consumers to waive both the three day and seven day requirements if the consumer determines that obtaining credit is necessary to meet a bona fide financial emergency. While the MDIA allows the Board to define what constitutes a bona fide emergency, the Board does not propose a definition of the term. *See* § 2502(f) of HERA (2008). Rather, the Board proposes to provide guidance under Comment 19(a)(3)-1. The Board requests comments on what constitutes a bona fide emergency.

NAFCU believes that the Board’s regulations should explicitly state that the lender is not responsible for determining whether a bona fide emergency exists or for verifying a claim that such emergency exists. Under the statute, the consumer has the responsibility to make the bona fide financial emergency determination and provide the lender a signed statement describing the emergency. Nothing in the statute, however, requires that lenders make an independent

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determination or verify the borrower's claim. We urge the Board to indicate the lack of determination or verification requirements in its amendments to Regulation Z.

NAFCU appreciates this opportunity to share its comments on the proposed rule. Should you have any questions or require additional information please call me at (703) 522-4770 or (800) 336-4644 ext. 268.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tessema Tefferi".

Tessema Tefferi
Associate Director of Regulatory Affairs