

From: New York Bankers Association, Michael P. Smith
Subject: Regulation Z - Truth in Lending

Comments:

Picture (Metafile)
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December 22, 2010

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

Re: Docket No. R-1390

Dear Ms. Johnson:

In response to the notice of proposed rulemaking published in the September 24 Federal Register, the New York Bankers Association (NYBA) is submitting these comments with regard to credit enhancement products offered in conjunction with loans secured by residential real estate. The New York Bankers Association operates a Group Creditors Insurance Trust through which many of our members enroll borrowers in credit, life, and accident and health insurance plans and other credit enhancements designed to protect the borrower's debt. Many of our members also offer their own credit enhancement products. The proposal would require that extensive additional disclosures be provided to loan customers that appear to be designed to discourage, and would certainly have the effect of discouraging, the borrowers from enrolling in these group policies. Our Association urges that the Fed redesign the disclosures for such products to make them objective, factual and non-d discouraging. The New York Bankers Association is comprised of the community, regional and money center commercial banks and thrift institutions doing business in New York State. Our members have assets in excess of \$9 trillion and more than 200,000 New York employees.

This proposal would revise requirements governing the inclusion of premiums for credit insurance, debt cancellation coverage, or debt suspension coverage (collectively, credit enhancement products) in the annual percentage rate calculation. As always, mandatory coverage must continue to be included. However, the proposal would condition the continued exclusion of premiums for optional coverage of these products by a requirement that new disclosures on the products be provided. The new disclosures, among other provisions, require that, before a customer enrolls in a credit enhancement product, he or she must be provided in both a tabular and question-and-answer format, using forms similar or identical to those provided in the proposal, statements that:

".if the consumer already has enough insurance or savings to pay off or make payments on the debt if a covered event occurs, the consumer may not need the

product;"

".other types of insurance can give the consumer similar benefits and are often less expensive;" and
".[i]f there are other eligibility requirements in addition to age and employment, .in bold underlined text that the consumer may not receive any benefits even if the consumer purchases the product.and pays the periodic premium or charge[.]"

The consumer is then required to sign or initial these disclosures before the premiums or other charges for the credit enhancement products can be excluded from the finance charge.

The New York Bankers Association has strongly and consistently supported clear, conspicuous and objective disclosure requirements for all financial products. However, these proposed disclosures are not objective. These disclosures will act to discourage consumers from contracting for credit enhancement products. They may also be misread by borrowers. Consumers with medical conditions which may make the purchase of other types of insurance difficult are not informed of the benefits of credit enhancement products that have no limitations on physical conditions. Consumers who may wish to free their estate or their heirs from responsibility for dealing with creditors are not informed of the benefit of credit enhancement products. The disclosure with regard to other eligibility requirements is required irrespective of how likely these additional eligibility requirements are to be imposed.

The Board has conducted numerous studies of credit life insurance and other credit enhancement products over the years and has consistently found that they are not tied to offers of credit and are perceived as optional by consumers. Penetration ratios confirm the results of these studies. The insurance credit enhancements offered by New York's banks and thrifts are reviewed and strictly regulated by the New York State Department of Insurance, one of the most protective of consumers in the country. The Department has never proposed to require disclosures similar to those included in this proposal.

For these reasons, the New York Bankers Association urges that the Board withdraw the disclosures proposed in sections 226.4 (d)(1) and (3), sections 226.6 (a)(5)(i) and (b)(5)(i), section 226.18(n), and section 226.38 (h) with regard to optional credit enhancement products. We also urge that the model forms implementing the new disclosures be withdrawn. Our Association strongly supports reasonable, factual and objective disclosure of all financial products. We urge that the Board adopt such disclosure requirements for optional credit enhancement products, such as credit insurance, debt cancellation coverage, or debt suspension coverage.

We appreciate the opportunity that the Board has provided to comment on this proposal.

Sincerely,
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Michael P. Smith