

VIA EMAIL: regs.comments@federalreserve.gov
and cc: Bonnie Kankel @ IBAT

Subject Line: Docket No. R-1217

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

Dear Ms. Johnson:

The Independent Bankers Association of Texas (“IBAT”) provides these comments on the advance notice of proposed rulemaking relating to open-end credit as regulated under Regulation Z. Specifically, our comments are limited to Question 103 as follows:

Home equity lines of credit are a very new product for Texas banks. They were only authorized by virtue of a Constitutional amendment enacted in the fall of 2003. The Texas Constitution prohibits any home equity loan whether closed-end or open-end from exceeding 80% of the fair market value of the home, taking into consideration all indebtedness against the property at the time the home equity transaction is consummated. Thus, at first blush, it would appear that banks making home equity lines of credit (“HELOCs”) in Texas would not be concerned with disclosures for credit that may exceed the dwelling’s fair market value.

However, Question 103 asks whether other circumstances should be considered such as the potential for a future increase in the total amount of the indebtedness. It is always possible for the fair market value of the home to decrease before a draw is made. Similarly, a borrower might make home improvements, with either the contractor or a third party taking an inferior position. These are not foreseeable or within the creditor’s control. IBAT strongly believes that neither these scenarios nor the possibility of them should trigger the proposed revised tax disclosure. Rather, only HELOCs that permit negative amortization should require this disclosure regarding limitation on tax benefits.

Texas law also prohibits negative amortization. Thus, we would suggest that Texas HELOCs should be exempt from this revised disclosure altogether as a result of the constitutional limitations placed on them with regard to negative amortization and loan-to-value limits at the time the transaction is entered into.

Thank you for this opportunity to comment. IBAT is a trade association representing approximately 600 independent community banks domiciled in Texas. Many of our members make home equity lines of credit and will be affected by this rule.

Sincerely,
Karen M. Neeley
General Counsel