



June 29, 2007

VIA FAX

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

Re: Proposed Rule Regarding Equal Credit Opportunity Act Electronic Disclosure Delivery.

Dear Ms. Johnson:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin, representing approximately 300 state and nationally chartered banks, savings and loans associations, and savings banks located in communities throughout the state. WBA appreciates the opportunity to comment on the proposed rule regarding electronic delivery of disclosures required by the Equal Credit Opportunity Act (ECOA).

ECOA makes it unlawful for financial institutions to discriminate in any aspect of a credit transaction on the basis of sex, race, color, religion, national origin, marital status, or age, because all or part of an applicant's income derives from public assistance, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. ECOA, as implemented through the Board of Governors of the Federal Reserve System's (FRB's) Regulation B, requires certain disclosures to be provided to applicants and some of those disclosures must be in writing. FRB has proposed changes to current requirements that were implemented by an interim final rule published in 2001, yet never made final.

Under section 202.16 of Regulation B, institutions are currently permitted to provide in electronic form any disclosures that are required to be provided or made available to the consumer in writing if the consumer affirmatively consents to receipt of electronic disclosures in the manner required by section 101(c) of the Electronic Signatures in Global and National Commerce Act (E-Sign). Currently, disclosures may be sent to an e-mail address designated by the applicant, or may be made available at another location, such as an Internet web site. If the disclosures are not sent by e-mail, financial institutions have to provide a notice to applicants alerting them to the availability of the disclosures. Additionally, disclosures posted on a web site have to be available for at least 90 days to allow applicants adequate time to access and retain the information. Financial institutions are also required to make a good faith attempt to redeliver electronic disclosures that are returned undelivered, using the address information available in their files. The proposed rule eliminates these electronic

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delivery provisions currently contained in section 202.16, and instead addresses the electronic delivery of disclosures in new subsection 202.4(d)(2), as discussed below. It should also be noted that the proposal would renumber current section 202.17 to section 202.16.

The proposed rule does not change the general rule regarding the form of disclosures under 202.4(d) other than re-numbering the subsection to 202.4(d)(1) and signifying in the heading that the subsection is the "General rule." The proposed rule does, however, add a new subsection 202.4(d)(2) "Disclosures in electronic form." This new subsection states that the disclosures under Regulation B that are required to be given in writing are subject to compliance with the consumer consent and other applicable provisions of E-Sign. However, the new subsection also goes on to state that where the disclosures under sections 202.5(b)(1), 202.5(b)(2), 202.5(d)(1), 202.5(d)(2), 202.13, and 202.14(a)(2)(i)¹ accompany an application accessed by the applicant in electronic form, such disclosures must be provided to the applicant on or with the application form. In addition, these particular disclosures may be made in electronic form without the consent or other provisions of E-Sign.

Furthermore, to provide additional clarity, the proposal would add comment 2 to section 202.4(d) to the Official Staff Interpretations. The comment states that if a consumer accesses an application in electronic form, the disclosures required to accompany the application must be provided to the consumer in electronic form on or with the application; providing the disclosures at a different time or place, or in paper form would not comply. Conversely, if a consumer is provided with a paper application the disclosure must be provided in paper form on or with the application. For example, if a consumer receives an application in the mail, the creditor would *not* satisfy its obligation to provide the disclosures at that time by including a reference in the application to the web site where the disclosures are located.

At the same time, FRB recognizes that consumers who apply for credit online may not want to receive other disclosures electronically. Therefore, with respect to adverse action notices under 202.9 or copies of appraisal reports under 202.14(a)(2)(i), financial institutions would be required to provide written disclosures, or obtain the consumer's consent in accordance with E-Sign before such disclosures could be provided electronically. FRB will monitor financial institutions' electronic disclosure practices with regard to the ability of applicants to retain certain Regulation B disclosures and will consider further regulatory action if it appears necessary.

¹ Section 202.5(b)(1) provides that if a creditor inquires about an applicant's race, color, religion, national origin, or sex for the purposes of conducting a self-test, the creditor must disclose that providing the information is optional for the applicant, that the information is required to monitor compliance with ECOA, and that the creditor may not discriminate on the basis of the information or whether the applicant chooses to furnish it. Section 202.5(b)(2) relates to the designation of title on an application form and that the designation is optional. Section 202.5(d)(1) addresses an applicant's marital status. Section 202.5(d)(2) prohibits a creditor from inquiring whether income stated in an application is derived from alimony, child support, or separate maintenance payments unless it is disclosed that such income need not be revealed if the applicant does not want the creditor to consider it in determining the applicant's creditworthiness. Sections 202.13 and 202.13(c) relate to the collection of government monitoring information as requested by the federal government. And section 202.14(a)(2)(i) requires a creditor that provides copies of appraisal reports only upon request to notify the applicant of the right to obtain a copy of the report.

WBA commends FRB in its efforts to further reduce regulatory burdens on financial institutions and supports FRB's actions to modify Regulation B disclosure requirements to better meet the needs of today's applicants. WBA agrees with FRB that both the industry and consumers have gained considerable experience with electronic disclosures and that consumers would benefit by having timely access to application-related disclosures in electronic form. WBA supports FRB's proposal to permit electronic delivery of certain Regulation B disclosures without first obtaining the consumer's consent, electronic delivery of certain notices or appraisal copies with consumer's consent; and to remove the requirements of e-mail alert notices and the 90 day minimum web site disclosure retention period.

In conclusion, WBA supports FRB's proposal to withdraw portions of the 2001 interim final rule on electronic disclosures that restate or cross-reference provisions of E-Sign and retain the substance of certain provisions of the interim final rule that provide regulatory relief or guidance regarding electronic disclosures. Once again, WBA appreciates the opportunity to comment on the proposed rule.

Sincerely,



Kurt R. Bauer
President/CEO