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Proposal: Regulation Z - Truth in Lending  
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Comments:

October 12, 2007 Ms. Jennifer J. Johnson Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, D.C. 20551 Re: Regulation Z; Docket No. R-1217 Dear Ms. Johnson: On behalf of the Debt Cancellation Coalition (the "Coalition") and the American Bankers Insurance Association ("ABIA"), we commend the Federal Reserve Board for proposing many significant improvements in Regulation Z with respect to debt cancellation and debt suspension products. The proposed changes would increase clarity and regulatory certainty in this area, and will thus enable the industry to more efficiently meet the needs of its customers. However, as will be discussed below, we also urge that the Federal Reserve make additional changes in its regulations that will further reduce unnecessary regulatory burden. In particular, we support the Board's proposed change to specifically provide the same treatment for optional debt suspension agreements as for debt cancellation contracts. Debt suspension agreements provide important protections for consumers, and are similar to debt cancellation contracts in many respects. We fully agree that the provider of a debt suspension product informs the customer that the benefit is the suspension of debt (not cancellation) and that interest may continue to accrue during the suspension period, if that is the case. We also appreciate that the Board's commentary will differentiate between debt suspension agreements and "skip payment" options that are optional benefits allowed by creditors under certain plans. We also agree with the proposed treatment of disclosure and affirmative acceptance requirements in the context of telephone solicitations. The proposal would permit these requirements to be satisfied orally, provided the lender maintains appropriate procedures to assure that the disclosures were made and records to demonstrate that the consumer affirmatively accepted the offer. Written disclosures would also have to be mailed to the consumer within 3 business days. These procedures are consistent with the rules applicable to the sale of credit life

insurance, and to the OCC's regulations governing debt cancellation and debt suspension sales. Consistency with these rules is good policy, and would eliminate unnecessary burdens that would result from different requirements under Regulation Z. As will be discussed below, we would urge that these rules also apply to home equity lines of credit. The proposal would clarify that fees for debt cancellation contracts and debt suspension agreements that result from the sale of these products in connection with an open-end line of credit are finance charges unless the appropriate disclosure and voluntary affirmative acceptance requirements are satisfied. We believe that this is the correct approach, and we support the proposal. Further, the inclusion of model disclosures is highly beneficial and will significantly reduce regulatory and litigation risks. There are several areas, however, that we believe merit additional comment.

1. Covered Products Since debt cancellation contracts were first authorized for national banks in 1963, the scope of these products has evolved. As originally devised, a debt cancellation contract was triggered solely by the borrower's death. It was later expanded to include disability and other life events. Today, financial institutions are finding widespread demand for a much broader array of products that may trigger benefits for such things as unemployment, the birth or adoption of a child, marriage, divorce, natural disaster, leave of absence, or call to military duty. The proposal is an improvement over the current regulation in that it would recognize that benefits may result from additional triggering events, but it would unnecessarily require that a debt cancellation contract or debt suspension agreement also have, as a triggering event, accident or loss of life, health, or income. Thus, as proposed, a financial institution would not be able to use the exemption from the finance charge computation if the debt cancellation product only covered marriage or divorce, birth or adoption, or similar events. The preamble explains that this limitation is included because of Section 106(b) of the Truth-in-Lending Act, which provides that the premiums for voluntary credit life, accident and health insurance are not required to be included in the finance charge. However, debt cancellation contracts and debt suspension agreements are not credit insurance, and therefore, as a legal matter, are not covered by Section 106. Further, the Board has the authority under Section 105 of the Truth-in-Lending Act to create exceptions and adjustments as it determines necessary or proper. Therefore, the Board has plenary authority to go beyond Section 106 in describing the range of triggering events for these products. Additional flexibility in this area would also be consistent with the OCC's position that these contracts can be tailored to provide consumers with products addressing their particular needs and concerns, without a specific limitation on permissible triggering events. This view has also been adopted by a number of states that authorize state-chartered institutions to offer these products for the same broad range of contingencies. The Board should respectfully consider an approach that would enhance regulatory consistency, and allow financial institutions the flexibility to design products that will provide the benefits that consumers desire, without forcing institutions to include any particular triggering event. A more flexible approach would also be consistent with the purposes of the Truth-in-Lending Act: meaningful disclosure of credit terms to permit consumers to make informed choices. By differentiating debt cancellation and debt suspension products based on whether the product includes accident or loss of life, health, or income, the proposal would result in different disclosures for economically similar products. For example, fees for a debt suspension agreement that is triggered by death, divorce, marriage, or birth or adoption of a child would not be included in the finance charge, but the fees for a product that is triggered by divorce, marriage, or birth or adoption of a child would be included. This result does not

seem to be consistent with the goal of uniform and meaningful disclosure.

**2. HELOC Loans**  
The proposal recognizes the difficulty of obtaining written authorization from consumers who are solicited through telephone calls, and appropriately provides the flexibility to permit the financial institution to document oral consent. These are the same rules provided in the Gramm-Leach-Bliley Act for credit insurance and the OCC's regulations for debt cancellation and debt suspension products. However, the proposal does not apply these rules to home equity lines of credit. We understand that the Board is not making any changes to home equity secured loans at this time, but is considering changes at a later date. We believe that with respect to the limited issues relating to the telephone solicitation of debt cancellation and debt suspension products, there is no reason for delay, and that the Board should include HELOC loans within the scope of the amendments.

**3. Clarification of Disclosure Rule**  
We would also like to point out that the proposed regulatory text at Section 226.6(b) could be clarified with respect to the treatment of fees for optional debt cancellation contracts and debt suspension agreements that are offered prior to the opening of the line of credit. Section 226.6(b)(3) appears to exempt these fees from account opening disclosure requirements, if the disclosure requirements of Section 226.4 are made when the debt cancellation or debt suspension product is offered, and it is offered before the consumer opens the credit line. This is a logical interpretation of the proposal since the consumer would be given all of the required information as part of the debt cancellation or debt suspension solicitation, and would not need to receive redundant disclosures at account opening. In fact, providing such redundant disclosures would likely confuse the consumer, and contribute to the potential of "information overload." However, to the extent that the regulatory text presents some ambiguity on this point, we suggest that the regulatory language make this explicit.

**4. Periodic Statement Disclosures**  
The proposal requires that periodic statements group transactions together by type, such as purchases, cash advances, and fees, without regard to whether or not the item would be considered a finance charge under Regulation Z. The monthly payments made for debt cancellation or debt suspension protection could be viewed as a "fee," or as a "purchase" of one month of protection. We believe that these charges should be characterized as fees, as the consumer has already completed the transaction for the debt cancellation contract or debt suspension agreement, and is simply being billed monthly for the product he has already purchased.

**Conclusion**  
The Board's proposed revision would make many significant improvements with respect to debt cancellation and debt suspension products, and will go a long way toward easing unnecessary regulatory burden and advancing regulatory consistency. However, the final regulation could go even further by deleting artificial and unnecessary requirements regarding permissible triggering events. We also recommend that the Board include home equity lines of credit in the proposed rules regarding telephone solicitations. We would also ask that the Board clarify the disclosure requirements for voluntary debt cancellation and debt suspension products offered before a line of credit is opened, and which comply with the specific disclosure requirements mandated to exempt these items from the finance charge. Finally, we believe it would be helpful if the Board could clarify that debt cancellation and debt suspension charges should be considered "fees" for purposes of periodic statements. We appreciate the opportunity to comment on this proposal, and would be happy to answer any questions that you may have.

Sincerely,  
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