From: "Thielen, Bruce" <bthielen@NASB.com> on 04/09/2008 03:00:03 PM

Subject: Regulation Z

Board of Governors
Of the Federal Reserve System

Re: Docket # R-1305

To whom it may concern;

North American Savings Bank, FSB (hereinafter referred to as "NASB") wishes to provide comment relating to the recently proposed amendment to Regulation Z of the Truth in Lending Act. NASB is nationwide residential mortgage lender. Specifically, NASB will comment on section 226.35 relating to "Prohibited acts or practices in connection with "higher priced mortgage loans" and proposed section 226.36 which deals with creditor payments to mortgage brokers.

Prohibiting a pattern and practice of making loans without regard to the borrowers' ability to repay a mortgage loan obligation in our opinion, should <u>not</u> be limited to "higher-priced mortgage loans" as defined by section 226.35(a). NASB believes the calculation of higher priced loans for this purpose is an unnecessary burden and requires additional compliance and monitoring as well as unnecessary mortgage origination systems changes, staff training and oversight. It is NASB's position that it would be best for all consumers, the financial system, investors and lenders to simply require a lender to verify the consumer's reasonably expected income, reasonably expected obligations and <u>liquid assets</u>, regardless of the interest rate, fees or loan term. Liquid assets should be allowed as a key component in determining the borrowers ability to repay. Lenders frequently encounter borrowers with sufficient assets to meet all living expenses without current employment or monthly income. Such borrowers are able to service their monthly living expenses and mortgage payments from the accumulated assets and/or the income earned from these assets. In our opinion, it makes no sense to limit the proposed protection to consumers seeking "higher-priced mortgage loans". Recent HMDA data has shown that "Rate Spread" home loans are not concentrated in a single loan type. NASB believes the greatest overall risk to mortgage investors and consumers is related to Alternative Documentation ("stated income" or No-Doc") loans originated below this rate threshold for the simple reason that the majority of the loans originated in this segment of the market fall below the proposed rate spread. As an example, a hypothetical borrower with a 730 credit (FICO) score qualifies for a conforming Stated Income loan at a rate of 6.25% + 0 points will be permitted to qualify for said loan without proving their ability to repay the loan (income), solely based on their credit score. This same hypothetical consumer can overstate their income to obtain approval for a $500,000 loan to purchase a home, when in fact the consumer may not qualify for half this loan amount if income verification was required. The proposed rule does not prevent this borrower from being over-extended credit. Such a loan is likely to end up in the portfolio of Fannie Mae, Freddie Mac or another federally insured lender with loss implications to the taxpayer, employee pension plans or individual 401-k's etc..

With regard to Yield Spread Premium (YSP) disclosures, we fundamentally disagree with the proposal's requirement to disclose the revenue retained by a mortgage Broker for the origination and sale of a loan. In very few businesses does the federal government require a proprietor to disclose the revenue or profit for their services. If the objective is to fully disclose the cost of the transaction to the consumer, enforcement of current regulations should suffice. On most mortgage loan transactions the consumer is required to be provided within 3 days of application, a Truth-in-Lending disclosure to disclose the costs, interest rate and APR for the stated transaction. We agree a consumer should be provided the complete disclosures before any fees are paid, and we support this change in the regulation. However, disclosing the revenue does nothing to help the consumer shop for the lowest price on the basis of interest rate and cost.

In our view, the problem with the current regulations regarding mortgage disclosures, including YSP's has not been the existing regulations themselves, but the lack of enforcement, primarily with mortgage brokers. By many estimates, mortgage brokers have accounted for more than 60% of total mortgage originations in recent years. New un-enforced regulations will do nothing to protect consumers. Regulated banks and thrifts, which are subject to annual regulatory compliance oversight and enforcement, do a much better job of protecting consumer's rights, through training, internal monitoring and auditing practices. It is necessary to make sure mortgage brokers have the same resources employed to ensure internal controls and oversight to meet the regulatory and compliance requirements for the protection of consumer's rights. If Brokers were subjected to the same level of annual oversight for compliance, consumer protection would significantly improve without changing existing disclosure rules. Without a strong central regulatory authority to oversee Broker compliance, consumers' will continue to deal with a patchwork of unsupervised mortgage brokers.

Thank you for the opportunity to comment on the proposed rules.

Bruce Thielen
Senior Vice President
Residential Lending
North American Savings Bank, FSB
10950 El Monte, Suite 210
Leawood, Kansas 66211
bthielen@nasb.com
913-327-2001 - Office
913-327-4001 - Fax
816-916-5083 - Cell