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COMMUNITY BANK & TRUST

100 S. Wood St., PO Box 400, Neosho, MO 64850
PHONE: (417) 451-1040 FAX: (417) 451-5751

Delivered via e-mail to: regs.comments@federalreserve.gov

April 7, 2008

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

RE: **Docket Number R-1305**

Dear Ms. Johnson,

We appreciate the opportunity to comment on the proposed changes to Regulation Z. We agree that consumers should be protected in the mortgage market with regards to unfair, abusive or deceptive lending and servicing practices. However, we do have some specific comments concerning various sections of the proposal.

Requiring Creditors to Establish Escrow Accounts for Higher-Priced Mortgage Loans:

Community Bank and Trust is a $250 million dollar bank with 14 branches located in Southwest Missouri and Southeast Kansas. We currently do not offer escrow services for our loans. To require us to begin escrowing for higher priced mortgage loans would be very burdensome. It would require dedicated staff, programming changes and extensive training and compliance/audit oversight to ensure it is functioning properly.

Our bank has originated several loans that are currently subject to HOEPA with the majority of these loans failing the points and fees test due to the customer purchasing single premium credit life insurance which has to be added to the calculation. This insurance of course is optional and it is the customer's choice to purchase the insurance which in turn equates to the loan being subject to HOEPA. We do not feel as though this is a deceptive practice however due to the change a few years ago, it has to be added to the calculation. It would be cost prohibitive to set up an escrow account for the few HOEPA loans that we have.

We understand that this proposal is designed to make shopping for a mortgage easier for the consumer and we agree with that concept. However, many small banks do not have the systems or qualified personnel to administer effective escrow services. As an alternative, could a separate disclosure be developed that accompanies the Good Faith Estimate and Early TIL disclosure which states something of this nature:

"These estimates do not include taxes and insurance that will be required to be paid by you on an annual basis. Please contact your insurance agent and the local taxing authority to determine your expenses for these items when budgeting for your mortgage expenses."

We don't believe that the absence of escrow accounts for higher cost mortgages is a major factor in the demise of the mortgage industry. Furthermore, we do not see the benefits to the consumer outweighing the associated cost of the service.

Proposed Definition of "Higher-Priced Mortgage Loan"

Currently, there is an exclusion from HOEPA coverage in 226.32 (a) (2) (i) for a residential mortgage transaction (otherwise known as a "purchase transaction" in which a security interest is created in the consumer's principal dwelling for the initial acquisition or initial construction of the dwelling). The proposed definition would make purchase loans subject to these rules. This would greatly increase the number of loans that could be subject to these rules and would require programming modifications as well as training issues. If the escrow provision passes, it would also be more burdensome to administer the escrow services due to a larger universe of loans subject to this definition.

We feel that many smaller banks are not the lenders who are creating the problems in the mortgage industry. Many of the subprime lenders who offer various ARM programs which offer lower initial teaser rates and other deceptive products are the main source of the problem. Most smaller banks are very conservative and have proper policies and procedures to ensure that their borrowers can qualify and continue to make their payments. Penalizing the entire industry for isolated violations of a specific nature is not the answer.

We feel increased attention to the ARM loan market would be more beneficial and address a large portion of the problem. Per your statistics quoted on page 1681 of the Federal Register, "from 2003 to 2006, 44 percent of the higher-risk ARMs that came to dominate the subprime market in recent years were extended to consumers to purchase a home. Delinquencies on subprime ARMs used for home purchase have risen sharply just as they have for refinancings."

Proposed Thresholds of 3 and 5 Percentage Points for Higher Priced Mortgage Loans

Currently, the thresholds for HOEPA coverage are if the APR at consummation is 8 % points over comparable Treasury securities for first liens and 10 % over subordinate liens. The proposal would substantially lower these percentages to correspond with the HMDA thresholds of 3 % and 5 % over comparable Treasury securities. This also substantially increases the number of loans that would be subject to these more stringent provisions.

To further confuse our customers, the proposal details different rules for matching mortgage loans to Treasury securities. The goal is to reduce the "yield curve effect" however we feel as though it will just complicate the issue even more. As proposed, each loan would be matched to a Treasury security that corresponds to that loan's **expected** maturity, which would be determined based on empirical data about prepayment speeds for loans with the same features. The prescribed rules are based on three features: whether the loan is adjustable-rate or fixed-rate; the term of the loan; and the length of any initial fixed-rate period, if the loan is adjustable. For example, a 30-year ARM having an initial fixed rate period of five years would be matched to a 5-year Treasury security. Another example listed is a fixed-rate loan with a term of 20 years or more would be matched to a 10-year Treasury security.

Imagine if you were the banker at the closing table trying to explain this to the customer:

> This is your APR which, in fact, is an estimate of your annual cost of credit. We have used that estimate and coupled that with your loan type and have determined that even though you have a 20 year fixed rate loan with us, statistics reveal that you will most likely pay it off in 10 years. So, we have compared your APR with the estimated 10 year payoff and determined that you have a high cost mortgage. Here is a disclosure you need to sign to verify that you understand all of this!
>
> I can't even imagine how confusing this would be to describe on an ARM product for the banker and the consumer.

We are making too many assumptions on estimated information to really provide any valuable information to our consumers. If it is difficult for the banking industry to understand, how is the borrower going to understand the process? In addition, the various matching methods proposed based on loan terms and types would require programming changes and substantial training issues.

Thank you for allowing us to comment on these proposed regulatory changes. As a whole, the small banks have not been a large contributor to the problem associated with the subprime lending market. These proposals are unduly burdensome and will substantially affect how we do business. We feel as though a major educational initiative for consumers would be beneficial to help them understand all the products in the market place. If they are able to make more informed decisions based on their individual financial goals and objectives, the problems could be mitigated going forward.

Sincerely,

Beth McCully
Vice President
Compliance Officer