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Subject: Reg. C

Concurrent with its publication on July 30, 2008, of proposed rules and staff interpretation of the Home Mortgage Disclosure Act, Regulation C, the Federal Reserve Board requested industry comments on seven areas of the proposed regulation. As a technology provider to various segments of the mortgage industry, LogicEase Solutions Inc. wishes to provide the following comments:

1. The Board requests comments on the proposal to change the reporting benchmark from Treasury yields to average prime offer rates.

We have no comment.

2. The Board requests comments on the Board's plan to use the Freddie Mac PMMS to estimate average prime offer rates, including comment on whether there are more appropriate sources of data.

We have no comment.

3. The Board requests comments on the method the Board proposes to use to derive average prime offer rates from the PMMS data, which is being published as Attachment I to this proposal.

We have no comment.

4. The Board requests comments on the proposed 1.5 and 3.5 percentage point thresholds.

We have no comment on the use of 1.5 and 3.5 as opposed to any other number of percentage points.

We do, however, have two comments on the exact details of the 1.5 and 3.5 percentage point thresholds. One deals with the comparison used in the threshold. The other has to do with rounding. Both are related to the Board's stated goal of conforming to the definition of "higher-priced mortgage loan" under Regulation Z.

Comparisons

The definition of a higher-priced mortgage loan under Regulation Z is limited to loans with an "annual percentage rate that **exceeds** the average prime offer rate for a comparable transaction as of the date the interest rate is set by 1.5 or more percentage points for loans secured by a first lien on a dwelling, or by 3.5 or more percentage points for loans secured by a subordinate lien on a dwelling." (Emphasis added.) However, the proposed amendments to Regulation C apply to loans where "the difference between the loan's annual percentage rate (APR) and the average prime offer rate for a comparable transaction as of the date the interest rate is set, if that difference is **equal to or greater than** 1.5 percentage points for loans secured by a first lien on a dwelling, or **equal to or greater than** 3.5 percentage points for loans secured by a subordinate lien on a dwelling." (Emphasis added.)

Based on the language in the final amendments to Regulation Z, the accompanying supplementary information, and the thresholds that already exist in 12 CFR 226.32, we believe the higher-priced mortgage threshold can be expressed as follows. (This is the first lien case; the subordinate lien case is obviously similar.)

Regulation Z: APR > APOR + 1.5

However, Regulation C's threshold uses a different comparison operator

Regulation C: APR - APOR ≥ 1.5

$$\text{APR} \geq \text{APOR} + 1.5$$

Therefore this is a minor difference between Regulation Z and Regulation C because of the difference between **exceeds** and **equal to or greater than**. If this difference exists, you could see a small number of loans which must be reported under HMDA, but which are not HOEPA higher-priced mortgage loans. Given the Board's goal of make the Regulation C threshold conform to the Regulation Z threshold, we suggest modifying the proposed Regulation C wording only use "exceeds" or "greater than" rather than "equal to or greater than".

Rounding or Truncating

Under both current and proposed Regulation C reporting, the rate spread is only reported to two decimal places. (According to Appendix A to Part 203, if the rate spread "is a figure with more than two decimal places, round the figure or truncate the digits beyond two decimal places.") In contrast, no rounding or truncation is performed in Regulation Z. This difference may or may not cause confusion in the industry; we have no opinion on it. We simply wish to mention the difference in case the Board wishes to address it.

5. The Board requests comments on the proposed timing for rate spread determination (rate-lock date, with weekly updating of the average prime offer rate benchmarks).

In general, this proposal is reasonable, particularly given the similarity to the already-finalized HOEPA higher-priced mortgage threshold. Having the same timing requirement under both regulations would simplify compliance. However, we do request that precautions be taken to make the applicable average prime offer rate (APOR) easy to determine for both Regulation Z and Regulation C.

Timing of Publication

We support the Board's plan to publish the APOR once a week, due to the fact that the Freddie Mac PMMS is itself published weekly. Weekly rates will be reasonably simple to collect and use, as opposed to daily rates that would require a higher level of monitoring without significant extra benefit. Monthly rates would be even simpler to collect and use, but these would probably not be as responsive as the Board would like.

Usage of APOR

We are concerned about ambiguity in determining which rate to take for a particular loan. Section IV, The Board's Proposal, states that, "The lender would use the most recently available average prime offer rate as of the date on which the lender sets the rate for the final time before consummation." "Most recently available" is wording that has given us trouble in the past, especially in the context of due diligence. This is because "most recently available" implies a certain degree of constant monitoring of a source in order to know of a newly available rate as soon as it is published.

Example : if a set of APOR rates is published on Monday afternoon, should a loan where the rate was set on Monday use these new rates, or should it use the previous week's rates?

Instead we would suggest using language in Regulation C and posting the APOR in a format that shows the week range over which it applies. Ideally we want there to be no question, given a particular rate lock date, what APOR should be applied to a loan.

We would suggest wording similar to New York's recent subprime home loan law, which references the rate "as posted in the week prior." (By "week" we assume a standard calendar week period from Sunday through Saturday is meant.) If the APOR is published each Friday and this wording is used, then each Friday's rate would apply to loans where the rate is set during the following week.

6. The Board requests comments on the proposed effective date of these amendments.

While we understand the desire to enact the new regulations on a year boundary, we believe that it may be advisable to delay the January 1, 2009, effective date. We would suggest extending the comment period and using an effective date later in 2009 or on January 1, 2010, instead. Our concern is not with the need to comply with the new HMDA requirements, rather, we make this suggestion due to the effect the changes will have on certain state laws.

State Laws

Several states have defined classes of loans that are subject to additional consumer protections and that use portions of the HMDA rate spread definitions by reference. Amending HMDA definitions will have instant and presumably unintended consequences on these state consumer protection laws. It is unclear whether these consequences will be beneficial or harmful to consumers and the industry.

Maine, Title 9-A, Section 8-103(1A)(V), as enacted by PL 2007, Ch 273

"Rate spread home loan" means any loan for which the rate spread must be reported under the Home Mortgage Disclosure Act of 1975, Regulation C, 12 Code of Federal Regulations, Section 203.4(a)(12); and any loan that meets the criteria of a high-rate, high-fee mortgage.

Connecticut, CT HB 5577 Section 21(a)(7)(F)(i), as enacted by Public Act No. 08-176

(7) "Nonprime home loan" means any loan or extension of credit, excluding an open-end line of credit, and further excluding a reverse mortgage transaction, as defined in 12 CFR 226.33, as amended from time to time: (i) The difference between the APR for the loan or extension of credit and the yield on United States Treasury securities having comparable periods of maturity is either equal to or greater than (I) three percentage points, if the loan is a first mortgage loan, or (II) five percentage points, if the loan is a secondary mortgage loan. For purposes of such calculation, without regard to whether the loan is subject to or reportable under the provisions of the federal Home Mortgage Disclosure Act, 12 USC 2801 et seq., the difference between the APR and the yield on United States Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirement of the federal Home Mortgage Disclosure Act, as those procedures and calculation methods are amended from time to time, provided the yield on United States Treasury securities is determined as of the fifteenth day of the month prior to the application for the loan.

North Carolina, Section 24-1.1F(7)(a), as enacted by SL2007-0352

Rate spread home loan. – A home loan in which all the following apply:

a. The difference between the annual percentage rate for the loan and the yield on U.S. Treasury securities having comparable periods of maturity is either equal to or greater than (i) 3 percentage points (3%), if the loan is secured by a first lien mortgage or deed of trust, or (ii) 5 percentage points (5%), if the loan is secured by a subordinate lien mortgage or deed of trust. Without regard to whether the loan is subject to or reportable under the provisions of the Home Mortgage Disclosure Act (12 U.S.C. § 2801, et seq.)(HMDA), the difference between the annual percentage rate and the yield on Treasury securities having comparable periods of maturity shall be determined using the same procedures and calculation methods applicable to loans that are subject to the reporting requirements of HMDA, as those procedures and calculation methods are amended from time to time, provided that the yield on Treasury securities shall be determined as of the fifteenth day of the month prior to the application for the loan. [...]

The legislatures in these states may wish to amend these definitions in response to HMDA amendments. However, the legislatures in Connecticut, Maine, and North Carolina do not reconvene until January 7, January 14, and January 28 of 2009, respectively, all of which occur after the proposed effective date of January 1, 2009.

7. The Board requests comments on the costs and benefits of the proposal generally.

While our company, like others, will incur expense in updating our computer systems to collect and apply the new rate spreads, as well as in performing updates to deal with changes to state laws (possibly on multiple occasions), in general using a single threshold for both HOEPA higher-priced mortgages and HMDA reporting should simplify federal compliance.

Thank you for your consideration of these comments.

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