March 17, 2008

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

Subject: Proposal to Amend Regulation Z R-1035

Dear Ms. Johnson:

Boeing Employees' Credit Union (BECU) appreciates the opportunity to provide comments on the proposed amendments to Regulation Z, which implements the Truth in Lending Act and Home Ownership and Equity Protection Act (HOEPA). BECU is a state-chartered, federally insured credit union with assets of $8.1 billion and a membership base of over 531,000.

Here are our comments:

1. The proposed requirement to establish escrow accounts will not apply to subordinate lien loans. Are there any other proposed restrictions that should also not apply to subordinate lien loans? *Additional restrictions that we feel should not apply to subordinate lien loans are sending disclosures before loan fees are pulled and the requirement to qualify borrowers based on the fully indexed rate (18%).*

2. If the proposal were to apply to Home Equity Lines of Credits (HELOCs), how should the APR threshold be set so it covers the subprime market while generally excluding the prime market?
We do not agree that HELOCs should be included. Loan origination APR is a closed-end loan calculation. To calculate an AP R at loan closing for HELOCs would fundamentally change how our loan origination system is programmed.

3. Should the proposed restrictions for higher-priced mortgage loans include bridge loans?
No. The term of the loan and the fees associated with the short term bridge loans are a disclosed known going into the transaction. The concerns being addressed in this proposal are not ones that apply to short-term financing. Bridge loans have a higher price and the borrower already knows that. There is no need to add another measure of the cost of money.

4. To what extent will the proposed threshold for higher-priced mortgage loans cover the alt-A mortgage market, which is the market between prime and subprime? What are the costs and benefits of such a threshold? Would a different threshold better achieve the objective of covering the subprime market, while excluding the prime market and avoiding unintended consequences for the alt-A market? Will you internally set a lower threshold to ensure compliance with these proposed restrictions and what would the consequences be for consumers? To what extent do you think lenders will charge higher fees and lower APRs to avoid these restrictions and what would the consequences be for consumers?

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We feel some lenders will start charging higher fees to offset the APR restrictions. It will be burdensome tracking which loans will trigger these new restrictions. If the origination systems are not sophisticated enough, lenders may have to default to comply with these restrictions on most loans. These revisions reverse many industry gains for lower document and streamlined processing of loans. The more regulatory and operational burden that a lender experiences equals greater costs and processing time and the costs are passed to the member along with delays experienced by the member.

5. The higher-priced mortgage loan threshold is based on comparable Treasury securities. Do you agree with the proposed approach for matching these loans to the appropriate Treasury security, based on the application date, instead of the date the rate is locked?
Yes, we like the application date approach. It's easier to track what the application date is as that never changes where the date the rate is locked could change.

6. The proposal will prohibit a lender from engaging in a pattern or practice of making higher-priced mortgage loans without regard to the consumer's repayment ability. This will depend on the totality of the circumstances. Is further guidance needed as to what is a "pattern or practice?" If so, what type of guidance is needed? There will be a presumption of a violation if the lender fails to verify income, fails to consider the borrower's ability to pay the loan at the fully-indexed rate that includes taxes and insurance, and fails to consider the borrower's debt-to-income ratio or residual income. Are these appropriate and are there other presumptions that should be included? Will these presumptions adversely affect credit availability?
If there are concerns about compliance and want to build processes and disclosures to ensure that we meet that objective, we need more concrete guidance. With the proposal adding more restrictions puts lenders at greater risk for violations of the regulation. It could be perceived by the hungry attorney that lenders are in the position of determining if a loan is in the best interest of the borrower. This means that every borrower who experiences "hind-sight" regret for obtaining a loan that they may not have truly been able to afford may have a course of action against their lender. The provisions should provide some flexibility and safe harbors to protect a lender who makes this determination to the best of its knowledge based on the information available at the time. Additionally, again, we do not agree that all subordinate liens should require income verification. The ruling on debt-to-income ("fails to consider") seems vague and open for interpretations and would need additional guidance.

7. As described above, failing to consider the ability to pay the loan at the fully-indexed rate will be considered a presumption of a violation. However, lenders only need to consider repayment ability for the first seven years of the loan. Should the time period be shorter than seven years and should this time period be modified to consider balloon payments? As for the presumption of a violation by not considering the borrower's debt-to-income ratio, should there be a presumption of a violation if the ratio is higher than a certain threshold, such as 50%? Should there be an exception for borrowers with high incomes, substantial assets, or other situations?
Subordinate lien loans should not be included in this. However, we do feel balloon loans should be included. On first lien loans, lenders should consider repayment under the initial terms and at the point of reset for introductory rates and ARM rates. If the reset is over 3 years, the calculation should only apply as an <u>informational disclosure.</u> Projecting a debt-to-income based on present income and potential future payment provides a baseline with some degree of accuracy.

8. Lenders will need to verify the income and assets they rely on with reliable third-party documents. To what extent will this reduce access to credit for certain borrowers, such as the self-employed who may not be able to provide such documentation?

We believe the language in the proposal is too restrictive regarding income and asset verification and may adversely affect certain borrowers. Self-employed borrowers with good, but not great, credit will find it more difficult to secure a mortgage or home equity loan. Since a prohibited practice will be presumed if lenders fail to document repayment ability, lenders will be required to obtain tax returns. We feel the provisions will need to be more flexible.

9. Prepayment penalties will be limited to five years for higher-priced mortgage loans. Is this time period appropriate to protect and provide benefits to borrowers? The proposal will also require that the prepayment penalty period expire at least sixty days prior to the date in which the payment may increase. Is this an appropriate time period? Should this only apply to loans in which the payment may change within a certain number of years (such as three or five years)? Should certain types of loans be excluded from this requirement, such as graduated payment and step rate loans?
This is not applicable for BECU as we do not have prepayment penalties. We do have applicants that have complained of not being aware of prepayment penalties within their contracts (other lenders) and being adversely impacted. This proposal should resolve how lenders clearly and conspicuously inform applicants about prepayment penalties, the length of the prepayment penalty period, and the costs of penalties, as well as, informing applicants that they may find another lender who does not have prepayment penalties (perhaps even being able to cancel an application and obtain a refund of any application fee paid., etc). The proposal as written does not do this and recommend adding provisions to do so.

10. Escrow accounts will be mandatory for first-lien, higher-priced mortgage loans and permit, but not require, lenders to offer borrowers an option to cancel escrow accounts twelve months after consummation of the loan. Do you support this requirement? Should lenders be required, rather than permitted, to allow borrowers to later opt-out? Should there be a different mandatory escrow period? *Requiring lenders to establish escrow and then allowing a program where borrowers can opt-out will add to the burden (time and expense) of maintaining escrow accounts. We also feel it will have a significant impact on delinquency and foreclosure. Allowing a borrower to opt-out later defeats the original purpose of requiring it in the first place. The requirement attempts to save borrowers from foreclosure or catastrophic loss due to not paying their property taxes. If the goal is to prevent the borrower from ever being in this situation, the funds must remain escrowed.*

11. Although HELOCs are excluded, lenders will not be permitted to structure mortgage loans as open-end transactions in order to evade the requirements under this proposal. Is this appropriate or should this be more narrow, by only applying this "anti-evasion" rule to HELOCs in which the borrower draws down all or most of the credit line right after the account is opened so as not to adversely affect legitimate open-end plans?
All HELOCs should be excluded regardless of when someone advances funds. We are very concerned with this provision. We are worried that examiners and attorneys may misinterpret our HELOC product. Many of our members advance all of their credit line as a fixed-rate advance right after their plan is established. Usually when a member has applied for a HELOC they do have a specific initial use for the funds. What is a "legitimate open-end plan?" We do not charge high rates or fees on our HELOC product. Will that protect it from these restrictions?

12. For yield spread premiums, the proposal will prohibit such fees to the extent they exceed the amount that the broker and consumer had agreed in advance would be the broker's total compensation. An alternative means of compliance would be if the lender complies with a similar state law and another alternative would be if the payments to the broker are not determined by reference to the interest rate. Do you agree with these restrictions and alternative means of

compliance? Why or why not. Do you agree that the agreement between the broker and consumer should be entered into before a fee is paid? Should these restrictions also apply to lender payments to their own employees? The proposal will apply this restriction to all mortgage loans. Should it be restricted to the higher-priced mortgage loans?
We would love brokers be required to disclose all compensation at time of application so the member is aware and that there may be alternatives available and possibly lower rates. Lenders typically do not have any hidden fees and have to disclose everything up-front and we think that brokers should as well. Often borrowers do not understand that they are being quoted rates due to compensation the broker receives. It does not appear this proposal specifies what the restrictions would be; therefore it is difficult to comment on those restrictions.

13. Lenders and mortgage brokers will be prohibited from pressuring an appraiser to misrepresent the value of the home and a lender will be prohibited from making the loan if it has reason to know the broker had pressured the appraiser, unless the lender determined that the appraisal was accurate or made the loan based on another appraisal. Do you agree with this approach? Why or why not?
The appraisal regulations already address this. If this passed as written, how will this be enforced? How will a lender protect itself from an accusation by an appraiser or a borrower of violating this requirement? We feel this will be very difficult to enforce or monitor. When an appraiser has provided their valuation to a property and the owner does not agree, sometimes the owner will provide additional comparisons for the appraiser to review. This could be interpreted as pressuring the appraiser.

14. A servicer will be required to credit a payment as of the date of receipt. How should partial payments be addressed? The servicer may also specify reasonable payment requirements in writing. What would those be? Could they include a cut-off time, such as 5 PM?
We feel specific payment procedures and cut-off times will be needed to protect lenders. Lenders should credit full payments as of the date of receipt, however partial payments would be credited to interest and principal only and does not constitute contractual fulfillment of the monthly obligation. Partial payments do nothing to stave off late fees, delinquency, and/or foreclosure (depending on how the contract is written). In our company, there are exceptions - such as payments on loans in various stages of delinquency. These payments require some research in the default areas and our payment center will wait until process instructions are provided. Payments are back-dated to the date of receipt, which will in turn waive any late charges that may have been assessed between the payment due date and the effective date.

15. Servicers will be required to provide a specific schedule of servicing fees and charges, upon request by the borrower, which must include the dollar amount and an explanation of the fee. Do you agree with this requirement, including providing a dollar amount, which could also include an hourly rate or flat fee? Why or why not?
We agree. Currently, when requested, we provide a list of fees in writing in a free-form letter. This could be part of our disclosure booklets. However, there will be added burden and expense to reprint the booklets (or an added addendum) every time the fees change. If the fees change, will a change-in-terms be required?

16. Should any or all of these new protections for all mortgage loans apply to HELOCs, or at least certain types, such as purchase money HELOCs that are used to purchase the home? Why or why not?
No. HELOCs are not designed to be 30-year loans. If the plan is open-end, it is open-end. It doesn't matter if or when the funds are drawn or how much is drawn. At some point, even the regulators must trust the member and not endeavor to hold their hand.

17. HOEPA currently prohibits negative amortization, interest rate increases after default, balloon payments on loans less than 5 years, and prepaid payments. Should these also apply to "higher-priced mortgage loans?" Would the benefits to consumers outweigh the costs to lenders?
We do have the rate increase to 18% if default (charge off) occurs. If this is prohibited, then we would not be able to use the rate increase to cover the costs for the additional expenses of collecting charge off debt.

18. Should any of the advertising restrictions described above for closed-end, home-secured loans apply to HELOCs? Are there other advertising practices currently associated with HELOCs that should be restricted?
No. We have no concerns on this.

19. For the additional advertising disclosures that would be required for loans that may, by its terms, exceed the value of the home, should these only be required for advertisements that state or imply that the amount of the credit will exceed the value of the home?
These provisions seem to be similar to the triggering advertising requirements already in place. If the loan-to-value on a mortgage product exceeds the value of the home, than that could be an additional trigger term for the additional disclosure items.

20. The changes to the advertising rules will require certain information to be in "close proximity" to other information. For electronic advertisements, should this now require that this information be without requiring the consumer to use a link to obtain the information? What would be the costs and limitations if this change were made?
There are space and user interface restrictions. There is only so much space available on the page. After a point, the information becomes cluttered, hard to control and interpret from the stand point of making the page easy to navigate and understand for the end user. Side-by-side makes the most sense, however options for execution need to be maintained. It appears that what is required in paper format is now transferring over to the electronic world. Members don't read all that is on paper advertisements - wouldn't that just carryover to the electronic world, too?

21. Unless specified, the proposed changes to the advertising rules for closed-end home loans do not apply to radio and TV advertisements. Should they apply? Why or why not? Are there other restrictions that should apply to radio and TV advertisements?
No. The disclosures are long and will overwhelm any marketing message made by radio or television. We recommend keeping it simple. To run an advertisement you only have so much time or space. Presenting two interest rates and/or payment amounts is going to end up confusing borrowers and missing the mark.

22. The changes to the advertising rules for variable-rate transactions assume a single index and margin. Is this a correct assumption?
No, that is an incorrect assumption. There can be multiple margins based on credit score.

23. The proposal prohibits seven specific advertising practices for closed-end home loans. Are these appropriate and are there other practices that should be prohibited? One of these practices would be comparisons based on "teaser" rates. However, comparisons based on the assumed refinancing of non-mortgage debt into a new home loan would still be permitted on the assumption that this information is helpful for consumers. Do you agree with this approach? Why or why not?
We agree with the approach. Members assimilate information in different ways. A comparison based on refinancing of non-mortgage debt can provide the context some borrowers need to understand the concept. For many borrowers this is a safe and reasonable use of their home equity. We do not have teaser rates on our products.

24. Under the proposal, lenders would have to provide a good faith estimate of the loan costs within three days after a consumer applies for any mortgage loan secured by a consumer's principal home and before the consumer pays a fee in connection with the application. Would the costs outweigh the benefits to consumers? Is more guidance needed to clarify which fees would be "in connection with the application?"

No additional guidance is needed. Currently, we do provide a good faith estimate within three business days of receiving the application with a list of fees. However, not all of the fees may be applicable to every situation. Making the good faith estimate specific to each scenario would delay the loan processing and would outweigh the benefits to the member. Additionally, before we take any fees we inform our member what they're for, how much, and get their approval.

Thank you for allowing us the opportunity to provide comments on this proposal. We look forward to the outcome.

Sincerely,

Gary Oakland President and CEO

Joe Brancucci
Executive Vice President
President - CEO, Prime Alliance Solutions, Inc.