Subject: Regulation Z

"Penny Asher" <penny.asher@nebankers.org>

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233 South 13th Street, Suite 700
Lincoln, Nebraska 68508
Phone: (402) 474-1555
Fax: (402) 474-2946
www.nebankers.org

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RE: Regulation Z – RESPA – Proposed Mortgage Lending Reform

Ladies and Gentlemen:

I write on behalf of the Nebraska Bankers Association (NBA) in connection with the Federal Reserve proposed mortgage lending reforms. The NBA is a trade association representing 239 of the 241 commercial banks and 13 of the 15 savings and loans in the state of Nebraska.

The NBA would like to express its support for efforts by the Federal Reserve Board (FRB) to address subprime lending abuses. Non-bank lenders, servicers, brokers, and others involved in the mortgage lending business should be subject to the same level of scrutiny and the same lending requirements as federally insured depository institutions. We believe that an enforcement mechanism comparable to the existing system for insured depository institutions should be established to oversee these non-bank financial firms involved in lending activities.

“Higher-Priced” Mortgage Loans

The FRB proposal defines a “higher-priced” loan as “a consumer residential mortgage loan with an APR greater than 3 percent over comparable Treasury securities, or 5 percent over comparable Treasury securities for subordinate liens." We would suggest that the test for "higher-priced" loans is too broad and would encompass a significant portion of prime loans. These provisions would impose additional costs for a significant portion of the mortgage market with little or no offsetting benefit. The FRB should widen the spread over Treasury securities or use an index that is more reflective of mortgage market rates.

The proposed underwriting and escrow requirements, as well as the limitations on prepayment penalties for "higher-priced" mortgages, should not be required for prime borrowers. Once again, this concern highlights the need for the FRB to more narrowly define "higher-priced" mortgages to ensure coverage of only subprime loans.

Provisions Applicable to All Mortgage Loans

The NBA is supportive of the proposed Broker Disclosure and Fee Agreement. Consumers are best served by receiving information that is more specific regarding a broker's role and compensation received in connection with a mortgage transaction. However, it is unlikely that depository institutions will be able to ascertain whether a Broker Fee Agreement was timely signed and the depository institution should be able to rely on the face of the Fee Agreement for this purpose.

The proposed provisions relating to "coercion of appraisers" appear to be consistent with existing rules and regulatory guidelines applicable to federally insured depository institutions. It is entirely appropriate to expressly prohibit all mortgage market participants, including mortgage brokers, from improperly influencing an appraisal. We take exception, however, to the provisions of the proposal that would prohibit creditors from extending credit when creditors "know or have reason to know" that a broker had coerced an appraiser. The "reason to know" standard is subject to broad interpretation and should be replaced with a standard prohibiting a lender from making a loan if the lender had "actual knowledge" that the broker had coerced an appraiser.

We generally support the adoption of proposed rules that would govern mortgage servicing practices, which are generally consistent with the business practices of depository institutions. In order to be consistent with appropriate industry practices, we would recommend the following clarifications to the proposed rule:

1. **Fee Schedules** – Servicers should not be required to disclose third-party fees that vary by geographic location. Servicers should be required to disclose only standard fees or common fees, such as non-sufficient funds fees or duplicate statement fees.

2. **Crediting an Account** – Servicers commonly engage in effective dating whereby they credit the payment back to the date of receipt. We request that the FRB specify that this practice continues to be permitted.

Advertising Rules

The NBA supports the proposed prohibited acts and practices in connection with mortgage advertisements. Specifically, the provisions prohibiting advertisements from displaying the name of the consumer's current lender in an advertisement unless the ad also prominently discloses that it is not associated with the consumer's current lender are entirely appropriate. These practices are "unfair and deceptive" and have been utilized by unregulated mortgage market participants to mislead consumers. A number of states, including Nebraska, have enacted legislation to address these abuses and we applaud the FRB for following suit in this regard.

In closing, the NBA appreciates the opportunity to submit our comments on the Proposed Mortgage Lending Reform.

Very truly yours,

George Beattie
Nebraska Bankers Association President
george.beattie@nebankers.org