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April 7th, 2008 FEDERAL RESERVE BOARD REGULATORY COMMENT TO REGULATION Z— TRUTH IN LENDING PROPOSALS (R-1305) Dear Sirs: Today, we clearly face challenging times in the banking and in the mortgage lending business. Candidly, if one yelled the words “mortgage loan” in a room of regulators, bankers, and brokerage folks today, the effect would be similar to yelling “fire” in a theater. And yet, the fire has occurred, holders of securities backed by mortgages have been “smoked” and borrowers face the toughest times they’ve had in procuring a “mortgage loan”-- in some time. Regulators face the challenge of evaluating what part they played in any risks passed along to consumers, and how to ensure that it doesn’t happen again. Getting things to balance for all parties should have its set of challenges, as the pendulum swings yet again. During the two or three years prior to the SubPrime meltdown, we’ve seen very little discussion about the strong profits and improved shareholder values that were enjoyed by the financial groups who owned higher risk, and yes, higher yielding mortgage backed paper. We’re guessing that rooms full of well paid securities analysts who were given all of the characteristics, geographies and terms of the paper they were buying, did not fully understand their business.

Today, we as a bank, and we as a nation, are paying for it. The Fed is enacting policies to mitigate these risks, and protect our nation's financial system. The pendulum from periods of easily available mortgage credit, high loan to value loans, and programs of questionable terms for borrowers, has swung back, in a big way. And the public sector is trying to save the private sector from itself—creating significant penalties for us all. From the front lines, as a bank, our perception of recent Fed actions regarding interest rate cuts is that they have been made too deeply, and too abruptly, to allow any borrower to make any changes in plans for investment of increased plant and equipment. We see them more as a placation of the stock market, than a poised adjustment allowing the economic factors we all learned in Econ 101 time to kick in. To adjust 50 basis points early in one week, followed by another 75 basis point cut in the same time frame, scares every banker. The uncertainty and volatility of what may come—- is of concern to everyone. The compression that has been created by the immediacy of the actions taken, may have been so dramatic, we predict that some banks will fail. We, as bankers, eventually adjust our lending criteria accordingly, and prudent bankers and concerned regulators tighten things up. In many ways, we are all overreacting to the potential risks of even the best and prudently made home loans today -—and the very real credit opportunities for all Americans are suffering, from this dual edged sword. Appraisers concerned by headlines, and liabilities associated with the overstatement of values in a scared home market, have moved towards ultra conservative approaches to home market valuations. The effect of an overreaction by all parties involved is that a larger segment of the borrowing public goes wanting, and can no longer be served. Many of these folks face foreclosure today—and can find little relief in an arena of tightened underwriting standards, and loan programs that are being curtailed daily, particularly in the secondary market. They find themselves trapped in a market flux. We all tighten standards during uncertain times-- as we are react to this "crisis of confidence"—-- but this tightening of home mortgage credit will contribute to further issues for many years to come. We think that the regulators could do much to facilitate these things, instead of focusing on more regulations, more paperwork and more restictions that could have a further dampening effect upon the availability of credit. Demand more and more, and banks will get out of the business of extending home loans, at all. The Truth in Lending proposal R-1305 the Federal Reserve Board released on December 18, 2007, attempts to strike a balance in protecting borrowers from unfair or deceptive practices without unintentionally causing responsible lending to shrink, or unduly limiting consumer choice (see FRB PR 12-18-2007) . Fair enough-- we believe that to be a common goal for all parties. We commend the Board for their attempts to make adjustments to the process to ensure that home borrowers are treated fairly, and that they (as consumers) understand the nature of the types of individual mortgage loan that are making a commitment to repay, as they purchase a home. Our team has been in mortgage lending for thirty years, and our small bank made $200 million in home loans nationwide over the last couple of years—--yet, we have had no buy backs of loans due to slow payment, and have few delinquencies in the portfolio of any home loan programs we offered and participated in. We were a responsible bank, in a very irresponsible world. We saw and competed with many questionable lenders and tactics—some of them banks, some thrifts, some mortgage companies, and some simply divisions of the above. Home lending is being limited today by a host of other factors, which we'd like to discuss further with anyone willing to listen, but that's not the focus of our comment letter. The proposed regulatory changes to Truth in Lending can be divided into four parts (as abbreviated by Sheshunoff Compliance). These are: 1.Protections covering "higher-priced mortgage loans." These rules apply to loans that are made for a consumer purpose, are closed-end loans secured by a consumer's principal dwelling, and have an annual percentage rate (APR) that exceeds the comparable Treasury security by three or more percentage points for first-lien loans, or five or more percentage points for subordinate-lien loans. The new protections would: • Prohibit creditors from engaging in a pattern or practice of extending credit without regard to borrowers' ability to repay from sources other than the collateral itself; • Require creditors to verify income and assets they rely upon in making loans; • Prohibit prepayment penalties unless certain conditions are met; and • Require creditors to establish escrow accounts for taxes and insurance, while permitting borrowers to opt out of escrows 12 months after loan consummation. COMMENTS: At a recent Fed regulatory update meeting in our region, further clarification was provided us—along the following lines: If our bank offers a one year adjustable rate mortgage loan (a loan that most regulators would prefer to see held on our books instead of a 30 year fixed rate home loan fraught with interest rate risks), the purchase of a home by a borrower under this new proposal would require that we evaluate the point of next re-set (that being 1 year treasury CMT of 1.60%) and add 3% to it—to determine the benchmark for a "higher-priced mortgage loan." Today, by adding 3% to a 1 year Treasury, we would be disclosing to a consumer that anything over a 4.60% rate on interest is a "higher-priced mortgage loan." Making no comment on the nature of the terminology, which seems adversarial in the first place, we have a problem with telling any home buyer that their 1 year ARM at 4.75% places them in the "higher-priced mortgage loan" bucket. Clearly, this margin on firsts (and second liens) needs some adjustment, if it has been accurately noted here. Further, many small banks in Kansas finance homes with 1 or three year notes—they may be amortized over longer periods, but they are callable and mature on these time frames. This doesn't apply to us, but we're confident that many banks would be surprised to hear that a 5% one year note for a home loan to their client, positions them as being in the higher interest home business. The first three bullet points above are standard fare for bankers, but the crux of the correction must take place at the investor level, to effectively curtail these practices. If private investors, and/or the Fannies and Freddies of the world have programs that have any of these characteristics inherently defined in the program, these loans will be offered by someone in the market place. The consumer may not get the product originated directly from a bank, but a bank owned finance company could be the culprit--- and we'd suggest that legislators and regulators work to close those loopholes--- in these downstream entities under banks. Some of these sub-corps, under the umbrella of larger bank holding companies, continue to abuse consumers. Everyone reading this comment letter is aware of larger banks that routinely make 12% home loans and 25% car loans to people—today, using loopholes in finance laws. Little to nothing is being done about it. On escrow accounts, what possible purpose does it serve to require an escrow account for one year, allowing borrowers to opt out at the end of the year. If we're going to define "higher priced mortgages" as being loans of higher risk, this proposal should require banks to have home loan escrows attached for at least five to seven years, and only after such time as the borrower has demonstrated the ability to repay the loan, and handle their financial obligation on-time and as agreed. The proposal would also prohibit creditors from structuring closed-end mortgage loans as open-end lines of credit to evade these rules, which do not apply to lines of credit. This is a reasonable step. 2. Protections covering all closed-end loans secured by a consumer's principal dwelling: • Prohibit creditors from paying a mortgage broker more than the consumer had agreed in advance that the broker would receive; • Prohibit any creditor or mortgage broker from coercing, influencing, or otherwise encouraging an appraiser to provide a misstated appraisal in connection with a mortgage loan; and • Prohibit mortgage servicers from "pyramiding" late fees, failing to credit payments as of the date of receipt, failing to provide loan payoff statements upon request within a reasonable time, or failing to deliver a fee schedule to a consumer upon request. These are reasonable provisions. The independency of the appraisal process is paramount to the making of quality loans, and anything that can be done to ensure that the process is sound, without great regulatory burden, is welcomed by all parties. Mortgage bankers need to held to higher standards—period. 3. Mortgage advertising provisions. The Fed proposed requiring that advertisements for both open-end and closed-end mortgage loans provide accurate and balanced information, in a clear and conspicuous manner, about rates, monthly payments, and other loan features. It would bar: • Advertising "fixed" rates or payments for loans whose rates or payments can vary without adequately disclosing that the amounts are "fixed" only for a limited time; • Comparing an actual or hypothetical consumer's current rate or payment obligations and the rates or payments that would apply if the consumer obtains the advertised product unless the advertisement states the rates or payments that will apply over the full term of the loan; • Advertisements that characterize the products offered as "government loan programs," "government-supported loans," or otherwise endorsed or sponsored by a government entity even though the products are not government-supported or -sponsored loans; • Advertisements, such as solicitation letters, that display the name of the consumer's current mortgage lender, unless the advertisement also prominently discloses that the advertisement is from a mortgage lender not affiliated with the consumer's current lender; • Advertising claims of debt elimination if the product advertised would merely replace one debt obligation with another; • Advertisements that create a false impression that the mortgage broker or lender has a fiduciary relationship with the consumer; and • Advertisements in which certain information, such as a low introductory "teaser" rate, is provided in a foreign language, while required disclosures are provided only in English. This section is all well and good. In our experience , however, many folks were coerced, misinformed, and quite frankly, lied to, by telemarketers and internet mortgage teams that sold programs like the “lender option ARM”—a deeply discounted adjustable rate home loan product that had fixed payments and negative amortization, typically coupled with further pre-payment penalties. In our national outreach, we competed against lenders who made these types of loans their primary lending strategy, and we’d attempt to dissuade anxious borrowers from signing up, but when they hear about 1.75% “fixed loans”, they thought they were set. So, “advertising”, should somehow translate to a prohibition to disclose any of these “false impressions” by any means of communication. Further discussion and curtailment of any gifts offered for a purchase, along with more meaningful and consumer friendly disclosures would make sense. Negative am loans should be illegal. Last thought-- do we really need larger areas of 3 pt text at the bottom of print ads and TV ads? Does communication really take place there? They are rarely legible and rarely contribute to any greater understanding. 4. Early disclosures. The Fed proposed requiring creditors to provide transaction-specific mortgage loan disclosures such as the APR and payment schedule for all home-secured, closed-end loans no later than three days after application, and before the consumer pays any fee except a reasonable fee for the originator's review of the consumer's credit history. Borrowers (and the professional Realtors assisting them with the purchase of a home) often make purchase decisions, that have relatively short time frames until the actual home closing takes place. The further delay of the process of getting required supporting documentation (like getting appraisals ordered on a timely basis) creates further potential for more stress in the home loan process. Often times, many lenders collect for an application type fee that simply includes the anticipated appraisal cost, the cost of a mortgage credit report, and a flood determination fee to ensure that the entire process is off to a good start. Allowing banks to collect any of these fees should be reasonable. CONCLUSION: No mortgage company, bank, credit union, or mortgage originator could have made blocks of Sub-Prime loans, without having someone to sell them to--- most of these organizations don’t have the capital or liquidity to hold these loans themselves. So the entry of stated income loans, low doc loans, lender option ARMs, and no income/no asset loans were all created and marketed by very large financial firms, who devised such products and programs. If regulators wish to ensure that these loans won't be present in the market place, that’s where they must place their focus, and curtail the programs there. Many of these large investors have changed their programs with the times, and curtailed abusive programs. Many have not. Abusive lending practices by finance companies (or subcorps of financials) that actively market and prey upon consumers, should be stopped. The public is still being taken advantage of, and regulators know who these groups are--- and these practices will continue until reforms are made to shore up loopholes which allow higher interest loans to be generated. Federal, state and local regulatory bodies should work with legislators to make this happen. One final comment—in the early eighties, we offered home loans at well below Prime—adjustable rate mortgages at 15.5% APR. Incredible as it seems, most people made their payments—just like most homeowners make their payments today. We've rarely seen or heard of any home mortgages originated in doble digit interest rates over the course of the past few years. Could it be that consumer spending is out of control, and that people are no longer prioritizing spending habits? In those days, the highest back-end debt ratio one could qualify for was about 40% of gross income... over the past few years, that number has steadily climbed. We’re seeing reports that 30-40% of the SubPrime losses nationwide took place because the loans were made to non-owner occupied borrowers. Further, for the majority of the country, the market bubble was never present, and we see statistics showing that a good percentage of the home loans defaulting in a handful of States. Let’s have the discipline to really analyze where and why the ship blew off course before we continue to make regulatory changes that mirror the recent Fed monetary actions. At some point, if this economy has recessionary characteristics, we all should have to bear the burden of the economic factors that contribute to them. It isn’t always the responsibility of regulatory bodies to essentially “save us from ourselves”. Difficult economic times call for tough measures. Many of the borrowers who stand upon their porches today, complaining to anyone that will listen about the loan programs they were sold, had documents and disclosures two inches thick explaining every facet of the loan they were signing up for—-they just never read them. We don’t blame them—- they are busy. But they also had disclosures (more than we've ever proffered)--there’s just too much overload in all of the papers they are expected to sign and understand concerning a home loan. As an industry, we've made it all entirely too difficult and too paper intense, to protect against every risk. If bankers and regulators and Congress understand how the complexity and volume of disclosures and documents contributes to the problem, shouldn’t we be able to work together to create a better solution? A far better approach might be less (not more) disclosures than we have in place now—--disclosures that would ensure that we never return to the situation we’ve just experienced. Our borrowers might read one page that really gets to the nuts and bolts of the loan they are taking out… a disclosure that’s meaningful and more abbreviated, and we suggest that everyone would be better off. Borrowers won’t read a hundred pages—and that may have contributed to some of their problems, with any unscrupulous lenders who buried prepayment and negative amortization type clauses deep within all of the paperwork. As always, we appreciate the opportunity to comment. We all want to make things better and more appropriate for consumers, in understanding credit. Let’s continue to work together to find proactive and positive solutions, and more our country forward. Respectfully, Thomas R. Wilbur Chairman/ Co-CEO BANK VI Salina, Kansas tomw@banksix.com