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Comments:

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Comments:

[Regulation Z; Docket No. R-1340] Mortgage Disclosure Improvement Act of 2008 (MDIA). MDIA appears to attempt to repair the current "Mortgage Crisis" by adding further disclosure to system that works sufficiently. The adding of these extended disclosures appears to burden the consumer's abilities to make their purchases while not adding a significant benefit. Emergency Economic Stabilization Act appears to ignore the economic downturn (i.e. lost jobs and reduced work hours due to company "Right Sizing "or closing), and attempts to replace this factor with disclosures. MDIA requires early, transaction specific disclosures for mortgage loans secured by dwellings other than the consumer's principal dwelling and requires waiting periods between the time when disclosures are given and consummation of the transaction. Comment: The requirement to provide early disclosures for transactions on non-primary residence and or timeshare appears to give consumers with financial savvy and economic ability, an advantage over the less sophisticated consumers interested in acquiring a primary residence. Consumers with the financial ability to purchase a non-primary residence would probably have a better understanding of the obligation they are about to transact and not benefit from the additional disclosures or delays in the consummation process. Consistent with the MDIA, the proposed amendments to Regulation Z would require creditors to deliver good faith estimates of the required mortgage disclosures or place them in the mail no later than three business days after receiving a consumer's application for a dwelling-secured closed-end loan. The delivery or mailing of these disclosures would have to occur at least seven business days before consummation. If the annual percentage rate provided in the good faith estimates changes beyond a stated tolerance, creditors must provide corrected disclosures, which the consumer must receive at least three business days before consummation of the transaction. The proposal would allow consumers to expedite consummation to meet a bona fide personal financial emergency. The MDIA, as amended by the Stabilization Act, specifies different requirements for providing early disclosures for mortgage transactions secured by a consumer's interest in a timeshare plan. Comment: MDIA attempts to duplicate the requirements of Regulation X. MDIA negates the Good Faith Estimates. In effect changes the Good Faith Estimate to a Good Faith Statement. MDIA should take in

consideration the consumer can refuse to sign any agreement which obligates them to additional debt if the original estimate is substantially different. It further appears the delays created in the redisclosure period would potentially harm the consumer's ability to stay within sales contract requirements and cause personal duress and economic loss (i.e. earnest money). The July 2008 final rule requires, among other things, that a creditor provide these early disclosures even when the loan is not for the purpose of financing the purchase or initial construction of the principal dwelling. Under the July 2008 final rule, the early disclosures also must be provided for non-purchase closed-end loans secured by the consumer's principal dwelling (such as a refinance loan). Comment: The rescission period granted under these types of transactions in effect provides disclosures prior to consummation. The July 2008 final rule also required these disclosures to be given before the consumer pays any fee, other than a bona fide and reasonable fee for reviewing credit history. As published, these provisions of the July 2008 final rule are scheduled to become effective on October 1, 2009 (73 FR at 55494). Like the July 2008 final rule, the MDIA requires creditors to make the early disclosures even when the loan is not for the purpose of financing the purchase or initial construction of the consumer's principal dwelling and prohibits the collection of fees before the consumer receives the disclosures. However, the MDIA applies these provisions to loans secured by a dwelling even when it is not the consumer's principal dwelling. Under the MDIA, for loans secured by a consumer's dwelling, creditors must deliver or mail the early disclosures at least seven business days before consummation. If the APR contained in the early disclosures becomes inaccurate (for example, due to a change in the loan terms), creditors must "redisclose" and provide corrected disclosures that the consumer must receive at least three business days before consummation. The disclosures also must inform consumers that they are not obligated to complete the transaction simply because disclosures were provided or because the consumer has applied for the loan. The MDIA imposes different requirements for early disclosure in closed-end mortgage transactions that are secured by a consumer's interest in a timeshare plan. These provisions of the MDIA will become effective on July 30, 2009, which is about two months earlier than the effective date of the July 2008 final rule. Currently under Regulation Z, creditors must provide the early disclosures within three business days after receiving the consumer's written application or before consummation, whichever is earlier. The MDIA amends TILA to require creditors to deliver or mail the early disclosures no later than three business days after receiving the consumer's application and at least seven business days before consummation. Comment: Current Regulation Z has addressed this issue, to provide the consumer the information to make an informed credit choice. It should not be necessary to redisclose. Comment 19(a)(2)-3 would be revised to clarify that the three-business-day waiting period before consummation begins when the disclosures are received by the consumer and not when they are mailed. This is consistent with the rules for certain high-cost loans and reverse mortgage transactions, which also require a creditor to make disclosures at least three business days before consummation. The MDIA provides that if the early disclosures are mailed to the consumer, the consumer is considered to have received them three business days after they are mailed. This presumption is important to two provisions in the MDIA: (1) The prohibition on collecting fees before the consumer receives the early disclosures; and (2) the requirement, if the APR in the early disclosures becomes inaccurate, that creditors make corrected disclosures, which consumers must receive at least three business days before consummation. The Board requests comment, however, on whether the more precise definition of business day should be used to facilitate compliance with the seven business day waiting period requirement. Comment: Business day has sufficient definition. The Board

solicits comment on the costs and benefits of basing the timing requirements for corrected disclosures solely on the time of consummation, for purposes of non-timeshare transactions, but on the time of consummation or settlement, for purposes of timeshare transactions. If Regulation Z's timing requirements for corrected disclosures should be consistent for timeshare transactions and non-timeshare transactions, should Regulation Z require creditors to make corrected disclosures at the time of consummation (rather than the time of consummation or settlement), for purposes of timeshare transactions? Or should Regulation Z require creditors to make corrected disclosures three business days before the later of consummation or settlement, for purposes of covered transactions other than timeshare transactions? Comments: Consumers in the process of purchasing a time share property would appear to be more astute in financial matters and not benefit by increased disclosure and time delays. H. Solicitation of Comments on Timing of Disclosures for Home Equity Lines of Credit The MDIA applies only to closed-end loans secured by a consumer's dwelling and does not affect the disclosure requirements for open-end credit plans secured by a dwelling (home equity lines of credit, or HELOCs). In connection with the Board's comprehensive review of mortgage transactions, the Board's staff is currently reviewing the content and format of HELOC disclosures and subjecting them to consumer testing. A proposal to improve the disclosures is anticipated next year. To aid in this review, the Board seeks comment on whether it is necessary or appropriate to change the timing of HELOC disclosures and, if so, what changes should be made. Under current rules, consumers typically receive non-transaction specific disclosures describing the creditor's HELOC plan at the time they receive an application. See 12 CFR 226.5b. Creditors must provide more detailed disclosures at account opening, before the first transaction. See 12 CFR 226.6. The Board seeks comment on whether transaction-specific disclosures (such as the APR, an itemization of fees, and potential payment amounts) should be required after application but significantly earlier than account opening, at least in some circumstances. For example, many consumers take a major draw on the account as soon as they open it. These consumers may use the funds to finance a home purchase (usually, but not necessarily, with a simultaneous closed-end loan) or an immediate expense (such as a college tuition bill). Would a requirement to disclose final HELOC terms, including the APR and fees, three days before account opening substantially benefit consumers who plan to draw immediately? Comment is also solicited on the potential costs and whether they would outweigh potential benefits. Comment: To attempt to provide consumers specific disclosures prior to or at closing on HELOC's would require financial institution to pry into the customer's use of the credit to determine when the line would be drawn upon, and the amount the customer expects to draw. The consumer might resist in providing information for privacy reasons. This is setting up the same type scenario as disclosed in the initial disclosures anticipating use and would not add value for the consumer and make it impossible for the Lender to give an accurate disclosure.