From: Bank of Central Florida, Cheryl Nakashige

Subject: Reg Z - Truth in Lending

Comments:

Date: Dec 18, 2009

Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
Document ID: R-1366
Document Version: 1
Release Date: 07/23/2009
Name: Cheryl Nakashige
Affiliation: Bank of Central Florida
Category of Affiliation: Commercial
Address:
City: Lakeland
State: FL
Country:
Zip:
PostalCode:

Comments:

I am the Compliance Officer for a small 2-year-old community bank with approximately $160 million in assets. I am currently in the process of trying to implement the massive RESPA changes, Regulation DD, Regulation Z, and other regulatory changes that are becoming effective soon. I have spent the entire year just implementing new regulations at breakneck speed like never before in 20+ years of banking. The government is going ballistic in passing new laws that will certainly drive us compliance officers to a quick death and the death of mortgage loans that are made in community banks. The Obama Administration is pleading for banks to make loans to businesses and consumers, but the government is hampering our efforts to do so by the onerous laws and regulations that are in place and being proposed. I can honestly say that I have worked for four local community banks, and we never once made any predatory loans but were only there to meet the credit needs of our community. In fact, in two of the banks we received an "Outstanding" Community Reinvestment Act rating. While there appear to be some benefits to consumers in the proposal, I just do not have the time to review 200 pages and comment specifically as to those sections I agree with or oppose. Remember, RESPA has to be implemented by January 1 and that takes precedence right now. It also is probably why you have not received a lot of comments from compliance officers of financial institutions that are heavily regulated already. We are too busy trying to comply!! There is just one major concern I have with the proposal that should be addressed by the regulators with additional research. This is in regard to changing the defintion of a "finance charge" to include almost all fees in a loan covered under Regulation Z. As a small community bank, we charge very little for mortgage loans and most likely don't even break even on the processing costs with all the regulatory requirements under federal and state laws. With the recent Regulation Z changes to higher-priced mortgage loans, we have to be even more careful about the types of loans we originate. This is because we do not originate higher-priced mortgage loans due to the required escrow requirements. As a small bank that isn't even three years old, we do not have the resources to establish an escrow program at our bank. Plus,

this would be subject to more cost and regulatory scrutiny. In implementing this most recent rule, I read many a comment through banker's chatlines that banks were taking the same position in not offering the higher-cost mortgage loans due to the escrow provisions. In fact, we have had to institute a process to update our loan rates each week based on changes in the weekly APOR rates to ensure we stay under the VERY LOW threshold. When you can't make a mortgage loan currently for around 6% because it is now considered a higher-priced mortgage loan, that sounds like an issue that needs to be addressed even more by the government than this new proposal. If the Federal Reserve implements the new finance charge definition as proposed, this will most likely have the effect of ceasing offering of mortgage loans to our customers that are covered by this new proposed rule. By including more of the fees as finance charges, this will increase the APR and a larger percentage of loans will now be considered higher-priced. In the proposal, I believe it was estimated that only about 3% of the loans might be considered higher-priced if the proposed rules were to be implemented. I would highly encourage the FRB to refigure this because it seems absolutely too low. In fact, the ABA did a survey in the weeks of September 14 and September 21, 2009 that asked banks whether they have performed a review/analysis of loan pricing to determine if you may be subject to Higher-Priced Mortgage Loan provisions. The responses indicated that 85 banks (or 69.1%) would have loans covered by the new rules. Only 10% stated they were not covered and 9% stated they were not planning or do not offer mortgage loans. In summary, our bank is opposed to the new proposal to change the definition of a finance charge to include additional types of fees since more loans will now be considered higher-priced. The FRB did not seem to take into consideration that the 1.5% rate that needed to be added to the APOR to determine whether a loan was a higher-cost mortgage and now there is fallout in the banking industry due to this low rate. While it seems practical to have a simpler definition, the consequences could be disastrous as they have been for the definition of a higher-priced mortgage loan. I strongly believe you need to curtail this part of the propsal for further research based on the major effect it will have on the banking industry. It is such a shame that as a highly regulated bank that had nothing to do with the mortgage crisis that we are now having to pay for the sins of others (mostly otside the banking industry). Please let us do our business and don't regulate us to death. Thank you for your consideration of these comments.