NAVY FEDERAL Credit Union

Office of the President

December 24, 2009

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

Re: Docket No. R-1366, Truth in Lending

Dear Ms. Johnson:

Navy Federal Credit Union appreciates the opportunity to comment on the Federal Reserve Board's proposed Regulation Z amendments related to closed-end credit secured by real property. Navy Federal is the nation's largest natural person credit union with $40 billion in assets and over 3.3 million members.

In previous comments to the Board, Navy Federal expressed support for the stated purpose of the Truth in Lending Act (TILA) – "to assure a meaningful disclosure of credit terms." While we agree that certain disclosures are prudent and necessary, we strongly believe excessive and complex regulatory requirements often produce undesirable and unintended consequences for the very consumers they were intended to protect. Navy Federal believes this proposal falls in the later category; therefore, we strongly urge the Board to withdraw the proposed amendments.

The current definition of finance charge has evolved over time and includes interest charges plus specified fees that are related to the loan transaction. The Board acknowledges the finance charge "has been problematic both for consumers and for creditors since TILA's inception" (74 FR 43242). Further, the Board states, "Consumer testing shows that most consumers do not understand the APR, and many believe that the APR is the interest rate" (74 FR 43243). The APR is derived from the finance charge and the two are closely related. Since confusion still reigns after 41 years of "refining" the definitions of finance charge and APR, Navy Federal believes the Board should place less emphasis on those measures as the basis for consumer decisions and choices. Our experience indicates our members want to know the loan interest rate, but their paramount concern is the amount of the monthly payments and the amount of funds required at closing.

Despite the Board's declarations that the APR is problematic and not understood, the current proposal would place additional costs and fees in the finance charge and further complicate consumers' understanding of what the APR means. We believe it is in consumers' best interests to simplify the APR – not make it more complex. We also believe consumers tend to rely less on information they do not understand. Notwithstanding, if consumers rely on the APR without knowledge of what is included in the calculation, they could make loan decisions that are not in their best interests. Consequently, we strongly urge the Board to abandon its proposal to further amend the definition of finance charge and the resulting APR of loans secured by real property.

Although we strongly disagree with the Board's proposal, we request that if it goes forward with the proposal, that it include in the regulation a list of specific items for inclusion in the finance charge. The list of items would not likely be as long as the list of exemptions that do not apply. The proposed language unnecessarily adds complexity and a potential for misunderstanding of the Board's intent by stating that certain exemptions do not apply. Proposed paragraph 226.4(g) states, "Paragraphs (a)(2) and (c) through (e) of this section, other than §§ 226.4(c)(2), 226.4(c)(5) and 226.4(d)(2), do not apply to closed-end transactions secured by real property or a dwelling." However, in its discussion of this section in the supplementary information, the Board provides a list of fees that would be included in the finance charge if the proposal becomes a final rule. The list is not included in the proposed regulation or staff commentary; hence, should the proposal be finalized, the list would not be readily available for reference by financial institution compliance staff. We urge the Board to retain some of the focus on plain language that was initiated for most government regulations several years ago.

Proposed paragraph 226.4(g) indicates that the exemption provided in 226.4(c)(7)(v) would not apply to closed-end transactions secured by real property or a dwelling. Paragraph 226.4(c)(7)(v) states, "Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge." Our plain language reading of the proposed regulation would require the inclusion of amounts paid into escrow accounts in the finance charge and consequently, the resulting APR calculation. We believe the exemption should remain intact otherwise amounts paid for hazard insurance and property taxes would be included in the finance charge. Again, if this proposal is finalized, the Board should clarify its intentions and provide safe harbor guidance for determining what escrow amounts should be included in the finance charge.

We also note the title of Section 226.18 is incorrect. The supplementary information and the staff commentary refer to this section as "Content of disclosures" while the proposed rule uses "General disclosure requirements." This inconsistency should be corrected if the Board goes forward with the proposal.

Navy Federal appreciates the opportunity to provide comments on the Board's proposed amendment to Regulation Z. If you have any questions, please contact Ellen Scott, Compliance Analyst, at (703) 206-2577.

Sincerely,

Cutler Dawson
President/CEO

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