1800 South Baltimore, Tulsa, Oklahoma 74119, Member FDIC

SpiritBank

October 25, 2010

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

Re: Docket #: R-13921 RIN AD 71000-AD54

Dear Ms. Johnson:

SpiritBank appreciates the opportunity to comment on the Board's proposal regarding jumbo loans and mandatory escrow requirements, amending Regulation Z, as published in the Federal Register Volume 75, Number 185.

One major concern of SpiritBank is that there are many changes being proposed that will be affected by laws/regulations that have yet to be written. There are additional changes coming that overlap with RESPA and TILA that will also require major changes to banks' systems (technology, process, procedure, training). SpiritBank agrees with the ABA that there is already evidence of anticipated regulatory burden associated with disharmonized rulemaking. This is apparent in the provisions of section 461 of the Dodd Frank Act (DFA) on which the Board is not issuing rules at this time. The DFA identifies mandatory disclosure requirements associated with higher priced and jumbo loans. However, the Board, in its present rulemaking, has chosen not to amend TILA or RESPA disclosure requirements in coordination with its proposal to amend section 226.35, although the new DFA disclosure mandates are different than what exist in present regulations.

Another example is found in section 129(D) governing the duration of mandatory escrow accounts. TILA presently provides that a borrower may cancel a mandatory escrow account, but not sooner than 365 days from consummation of the original mortgage. Dodd-Frank provides a different requirement, increasing the period of mandatory escrow to five years, unless and until certain identified events occur, such as the borrower having sufficient equity in the dwelling securing the transaction.

Section 1461 grants the Board authority to exempt certain creditors from the mandatory provisions, and additional broad authority to make changes to section 129D(b), if the Board determines such changes would be in the public interest. Wouldn't it make sense that the Board identifies the exemptions and changes related to section 129D at the same time the rule governing the threshold average price offer rate spread that would trigger mandatory escrow for jumbo loans at the same time? As presently proposed, banks will make changes pursuant to the current proposal and will have to make later changes based on the exemptions. This will require additional training and regulatory compliance costs that could have been avoided; thereby saving the consumers from higher costs.

The Board is also proposing to change the metric for identifying higher priced mortgage loans. The Board stated that "any new metric would impose some costs, including training staff and modifying software and other systems" and went on to say "the Board believes that these costs should be relatively small because the proposal would necessitate only a one time modification to creditors' systems." This may be true IF the proposed metric change is coordinated with other changes to those same systems, including changes associated with mandatory escrow for jumbo loans otherwise the costs could become monumental for creditors and consumers.

The Board should also ensure that is very clear in the final rule that the Board does not interpret Section 1461 of DFA to place a mandatory escrow account on all mortgages. It should clarify that 1461 is referring to those mortgages meeting the definition of a higher priced mortgage loan as the Board has defined in HPML.

There is also a need for clarification on if the Board means to include the "Super Conforming" or "Jumbo Conforming" loans (FNMA/FHLMC loans made in high cost areas that exceed the standard limits) in the definition of "Jumbo Loans" that will be governed by the 2.5% trigger threshold. Will these loans be subject to the 1.5% trigger as other loans purchased by FNMA/FHLMC ($417,000 or LESS) or will they be subject to the 2.5% trigger?

SpiritBank agrees that jumbo loans should be viewed different than and outside of the definition of higher priced mortgage loans; however, separating section 226.35 of TILA from the provisions of the DFA will result in more burden and cost to the banking industry that would override the intended benefit.

Therefore, SpiritBank is respectfully requesting that the Board consider delaying mortgage lending rulemaking until such time that rulemaking under the DFA can be harmonized with the DFA statutory effective dates.

Thank you for the opportunity to comment on this very important matter.

Sincerely,

Lois M. Shamas
Director of Corporate Compliance
SpiritBank