April 14, 2011

Ms. Jennifer J. Johnson, Secretary
Federal Reserve Board
20 and C Streets, NW
Washington, D.C. 20051
regs.comments@federalreserve.gov

Re: Docket Number R-1408

Dear Ms. Johnson,

San Diego County Credit Union appreciates the opportunity to comment on the proposed amendments to Regulation B published in the Federal Register on March 15, 2011. The proposed changes would amend the model notices in Regulation B to, "include the disclosure of credit scores and information relating to credit scores, if a credit score is used in taking adverse action." As noted, these new rules would implement section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

We suggest the Board consider the following situations not currently contemplated and add direction in the final rules:

- Foreign borrowers - Sometimes foreign borrowers submit a copy of their credit report from a foreign country. The proposed rule refers to the Section 615 of the Fair Credit Reporting Act (FCRA) which defines a "consumer reporting agency" as

  (f) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

  This definition neither includes nor excludes a foreign credit report agency. It is unclear if this is intended to be treated as a "credit report" and the applicable model language used (however some contact information and statements about rights to dispute may be incorrect) or if the foreign report should be considered from an "outside source other than a consumer reporting agency" and the applicable model language used.

- Reference to number of recent inquiries - The model language references the "number of recent inquiries on credit report" to be listed if that was a factor in the adverse action decision. Experian, for example, provides both the number of inquiries in the past 6 months and for the past 24 months on the credit report. A

definition of “recent” would allow financial institutions to provide the information most helpful to consumers.

- Joint borrowers/Co-applicant’s - Regulation B 12 C.F.R. 202.9(F) states that only one notice is required to be provided and that it should be provided to the primary applicant (if apparent). Is this still true even if the joint borrower/co-applicant’s score is considered in the adverse action? Also, to maintain privacy, clarification would be helpful to ensure that credit score information will not be disclosed to anyone other than that individual, even if applying for a loan with another applicant. (Perhaps similar wording to that found in the risk based pricing rules implementing this same requirement in the Dodd-Frank Act could be used.)

- Guarantors - Must a separate notice be provided to a guarantor? Currently, FCRA section 615(a) requires that "any consumer" with respect to whom adverse action is taken must receive the disclosures if that action is based "in whole or in part" on information from a consumer report. The language "any consumer" seems to include co-applicants. The definition of adverse action found in the Equal Credit Opportunity Act (FCRA refers to that definition) set forth in Regulation B, 12 C.F.R. § 202.2(c) refers to the denial of an "applicant". Further, the rule states that only for purposes of section 202.7(d) does an applicant include a guarantor Regulation B, 12 C.F.R. § 202.2(e). Therefore, it seems that no notice is required to be issued to the guarantor, and, if the applicant is denied because of the guarantor’s credit information, it appears no FCRA or score disclosure language would be required on the adverse action notice to the applicant, rather just the Regulation B language.

- Applicant with No Score - Some applicants do not have a credit score. The absence of a score can be a factor in the credit decision. Please clarify what disclosures, if any, should be provided when there is no credit score available.

Once again, we appreciate your consideration of these items as you formulate final rules.

Sincerely,

Phil Wilson, Executive Vice President
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