



December 23, 2010

The Honorable Ben S. Bernanke
Chairman, Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Docket Number: R-1390
Regulation Z; Truth In Lending

Dear Chairman Bernanke:

The National Association of Mutual Insurance Companies (NAMIC) is pleased to offer comments on a proposed rule referenced above. NAMIC is the largest and most diverse national property/casualty insurance trade association in the United States. Its 1,400 member companies write all lines of property/casualty insurance business and include small, single-state, regional, and national carriers accounting for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market. NAMIC has been advocating for a strong and vibrant insurance industry since its inception in 1895.

Contained within this proposed rule is an attempt to significantly alter the current effective disclosures requirements as they pertain to credit insurance that would have damaging consequences for both credit insurers and consumers. The proposed changes appear to ignore current state disclosure requirements, as well as the model disclosure statute developed by the National Association of Insurance Commissioners (NAIC). In addition, the proposed rule, if implemented, would effectively impose federal regulation on the state-based regulation of the business of insurance. Worst of all, the proposed rule would have the effect of deterring consumers and their families from obtaining products designed to help them meet their debt obligations in the event of future adverse circumstances.

NAMIC appreciates the opportunity to comment on this proposed rule that could have wide-ranging negative impacts on our member companies and our policyholders.

Background

On September 24, 2010, the Federal Reserve Board (the "Board") published a proposed rule and request for public comment docket number R-1390, proposing to amend Regulation Z – which implements the Truth in Lending Act (TILA) – as part of a comprehensive review of TILA's rules for home-secured credit, among other things. The

proposed rule is long and far-reaching. Included within the proposed rule are changes to existing disclosure requirements related to the purchase of credit insurance. NAMIC will limit its comments to these proposed modifications.

Proposed Modifications to Credit Insurance Disclosures

NAMIC believes that the significant changes to existing disclosure requirements related to credit insurance that the Board is proposing are confusing, unnecessary, and in conflict with the state-based regulation of insurance. In addition, the proposed disclosures seem designed to deter consumers from obtaining helpful products and preventing them from receiving important information that is necessary for them to make an informed decision about purchasing these protective products.

NAMIC respectfully requests that the Board reexamine these changes to the disclosure requirements, taking into account the current state mandates on disclosure, the model NAIC law, and the potential confusion and financial harm the changes will have on consumers. NAMIC believes a reasonable look at these sweeping disclosure changes should result in their elimination from the proposed rule.

Credit Insurance

Credit insurance is a term insurance product sold in connection with consumer lending transactions. Credit insurance assists consumers in meeting their loan obligations in the event of contingencies that could lead to default on the extension of credit. Specifically, credit insurance provides benefits or monthly payments if the borrower dies or suffers a total disability. These benefits reduce or pay off the borrower's debt – allowing the borrower or his or her family to maintain ownership of an asset, preserve other insurance and protect their credit score.

Credit insurance is actively regulated by the departments of insurance in all 50 states. Under these state laws, the purchase of credit insurance is strictly voluntary and never required. It is never a condition for obtaining credit and coverage can be cancelled at any time. In addition, the sale and purchase of credit insurance does not require invasive medical inquiries or examinations to obtain coverage and the premium is never influenced by the borrower's age, gender, race or occupation.

Credit Insurance – Disclosure Requirements

Laws and regulations in all 50 states require that creditors make comprehensive disclosures to borrowers about the potential purchase of credit insurance. 37 states have adopted NAIC Model Law 360 § 6 (“Section 6”) on pre-purchase credit insurance disclosures and the remaining states have enacted provisions comparable to Section 6. In addition, several states have adopted additional or continuing disclosure requirements that insurers must meet.

All disclosures to the borrower must be made before the election to purchase credit insurance and must be provided at the same time as the offer of credit. Section 6 disclosures must include the following in writing:

- (1) That the purchase of consumer credit insurance is optional and not a condition of obtaining credit approval;
- (2) That if more than one kind of consumer credit insurance is being made available to the debtor, whether the debtor can purchase each kind separately or coverage only as a package;
- (3) The conditions of eligibility;
- (4) That, if the consumer has other insurance that covers the risk, he or she may not want or need credit insurance;
- (5) That within the first thirty (30) days after receiving the individual policy or group certificate, the debtor may cancel the coverage and have all premiums paid by the debtor refunded or credited. Thereafter, the debtor may cancel the policy at any time during the term of the loan and receive a refund of any of the unearned premium. However, only in those instances where insurance is a requirement for the extension of credit, the debtor may be required to offer evidence of alternative insurance acceptable to the creditor at the time of cancellation;
- (6) A brief description of the coverage, including a description of the amount, the term, any exceptions, limitations and exclusions, the insured event, any waiting or elimination period, any deductible, any applicable waiver of premium provision, to whom the benefits would be paid and the premium rate for each coverage or for all in a package; and
- (7) That if the premium or insurance charge is financed, it will be subject to finance charges at the rate applicable to the credit transaction.

Offers made electronically or by mail must be made in writing and presented in a clear and conspicuous manner. For purchases of credit insurance made after an extension of credit, the disclosures may initially be made orally, but written disclosures must be provided to the debtor within 10 days of the offer or when other written material is provided, whichever occurs earliest.

Credit Insurance – Federal Reserve Board Proposed Disclosure Requirements

The modifications on credit insurance disclosures found in the Board's proposed rule are based upon the results of consumer surveys conducted by the Board and ICF Macro in July 2009 and July 2010. They do not take into account existing state disclosure requirements or the model NAIC law.

These surveys presented consumers with various draft credit insurance disclosures and resulted in the current proposed disclosure. It is clear from the Board's surveys that the proposed disclosure was preferred over others because only one consumer out of 18 expressed an interest in purchasing credit insurance. Earlier drafts had produced a higher response rate of interest and the Board staff took proactive measures to distort this outcome in order to create the impression that fewer consumers were interested in the product. The July 2009 survey states: "Based on the findings from this round, the Board staff was concerned that the presence of information about credit life insurance on the first page of the TILA statement increased awareness of the product, but did not make consumers aware that they might not qualify for the product's benefits. Therefore, the decision was made to remove this information from the TILA statement and to add language to alert consumers that they might not be eligible for benefits from the insurance." The proposed credit life disclosure includes the statement "You may not receive any benefits even if you buy this product" but provides no additional information to help consumers understand the product.

It would appear that the disclosures are intended to deter consumers from purchasing a valid, legal financial services product by withholding important information from consumers. In effect, the Board is advocating negative anti-marketing language and preventing consumers from making an educated financial decision – and with complete disregard of current disclosure requirements. Consumers would be better served if the Board were to provide disclosure language designed to assist consumers in understanding the terms, conditions and both the positive and negative effects of purchasing credit insurance, as opposed to mandating language aimed at preventing the product from even being considered and denying consumers full information on the product.

The confusion this proposed rule creates is clear in the Board's own results. With the final disclosure language, consumers still have unanswered questions arising from the disclosure's own references to terms of coverage. See survey participants' response regarding additional information needed. (Page 16, ICF Macro Survey July 2010). Clearly, the proposed disclosure provided insufficient information to these consumers.

Given the confusing nature of the Board's disclosure language, it is not surprising that consumers would have questions. The resulting confusion would likely cause a consumer to not purchase the product even though it could be highly advantageous and appropriate in their situation.

The Board's congressional authority provides, among other things, for the Board to facilitate a consumer's fair evaluation of a credit protection product and their decision whether or not to purchase that product. This proposed disclosure language goes well beyond this authority. In this instance, the Board appears to have conducted its own credit insurance product evaluation, has decided that it doesn't approve of the product for unknown reasons, and chosen to influence consumers to not purchase the product – again, in disregard for existing state credit insurance disclosure laws.

State Regulation of Insurance

By ignoring established strong disclosure requirements enacted by all 50 states and enforced by state departments of insurance, the Board is engaging in an unwarranted intrusion of federal regulation into the business of insurance – an intrusion expressly disallowed by Congress.

The Dodd-Frank Wall Street Reform and Consumer Protection Act expressly eliminates the business of insurance from the vast majority of the legislation's jurisdiction because of effective state-based regulation. Specific to this proposal, Congress deliberately elected to not include all lines of insurance, including credit insurance, from the jurisdiction of the new Consumer Financial Protection Bureau because of the strong consumer protections afforded at the state level. By proposing this significant new disclosure language, the Board is effectively attempting to usurp the states' authority to regulate credit insurance by the states – in clear contravention of the intent of Congress in both the Dodd-Frank bill and the long-established McCarran-Ferguson Act.

Conclusion

The proposed credit insurance disclosure language contained in the proposed rule is biased and confusing for consumers. It fails to recognize existing state consumer protection disclosure laws and needlessly infringes on state regulation of insurance. For these reasons, NAMIC respectfully requests the Board to reconsider the proposal. NAMIC is hopeful that a thoughtful and reasonable reexamination of current state disclosure requirements will lead the Board to delete all reference to credit insurance from the rule and recognize the effective current disclosure efforts.

NAMIC looks forward to working with the Board in addressing consumer protection concerns and throughout the Dodd-Frank implementation process and would appreciate the opportunity to participate in future rulemakings and implementation proceedings to discuss the impact on the property/casualty insurance industry.

Sincerely,

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