WISCONSIN BANKERS ASSOCIATION

December 20, 2010

VIA EMAIL
Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551
regs.comments@federalreserve.gov
Docket No. R-1390

Re: Regulation Z, Truth in Lending proposed rule; Docket No. R-1390

Dear Ms. Johnson:

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 300 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System's (FRB's) proposal regarding significant revisions to Regulation Z, which implements the Truth in Lending Act (TILA).

FRB's Regulation Z proposal is expansive, and includes: (1) revisions to rescission disclosure rules; (2) new disclosure requirements for a modification to an existing closed-end mortgage loan; and (3) new calculations to determine whether a closed-end loan secured by a consumer's dwelling is a higher-priced mortgage loan (HPML).

WBA recognizes FRB's significant effort to review Regulation Z in an attempt to identify whether substantive or clarifying revisions should be made to mortgage lending disclosures. These efforts have been undertaken with the goal of improving mortgage loan disclosures, limiting costs to consumers for mortgage products, and ensuring sound housing finance options remain available to consumers. WBA shares this goal, as does Congress which was evidenced by the passage of the Dodd-Frank Act (DFA). However, the proposal does not take into account the comprehensive changes the DFA makes to the legal framework of mortgage loan financing. WBA believes it is absolutely essential that FRB postpone any rulemaking in light of these impending comprehensive changes in order to realize meaningful improvement to mortgage loan disclosures while at the same time limiting costs to consumers, and ensuring sound financing options.

Therefore, WBA respectfully requests that FRB postpone finalization of this proposal and any other rulemaking until FRB, working closely with the Bureau of Consumer Financial Protection and others, finalizes and implements the integration of TILA and Real Estate Settlement Procedures Act (RESPA) disclosures and other mortgage lending reform, as mandated under the DFA. WBA believes that attempting to focus on

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multiple rulemakings that are not specifically mandated by Congress, as is the case with this Regulation Z proposal, draws focus away from the DFA-mandates. Thus, WBA urges FBR to first focus all its efforts to the extensive requirements of the DFA, before turning its attention to other aspects of Regulation Z.

WBA believes that if FRB were to finalize its Regulation Z proposal now, FRB will only have to revisit each such revision in light of mandates under the DFA. WBA believes this would result in potentially conflicting disclosures and unnecessary, duplicative costs to financial institutions which would be passed on to consumers. In this scenario, institutions would have to devote resources, time, and money to implement the revisions under the current proposal only to devote more resources, time and money to implement revisions to the revisions.

An example of costly, duplicative efforts is FRB's current proposal to implement changes to the determination of whether a closed-end loan secured by a consumer's dwelling is an HPML. Financial institutions have only recently implemented the requirements of HPML. However, since that time, the DFA was passed imposing new calculations for HOEPA and creating the new mortgage classifications of "higher-risk mortgages" and "qualified mortgages". It has yet to be seen how these calculations and classifications will affect HPMLs since implementing regulations have yet to be written. If FRB finalizes this current Regulation Z proposal, financial institutions will need to expend costs to implement the new APR test for HPMLs. Then, upon implementation of regulations under the DFA, all matters relating to HPMLs will once again need to be reviewed. Upon such review, provisions implemented under the current rulemaking will likely require revision if not a complete overhaul. WBA believes this piecemeal approach to be a very costly and ineffective way to implement regulations. Furthermore, this piecemeal approach to regulatory change is not the approach envisioned by Treasury Secretary Timothy Geithner or Assistant to the President and Special Advisor to the Treasury Secretary Elizabeth Warren.

In addition, consider that over the past 24 months financial institutions have had to implement not just a single area of regulatory change, but have had to implement significant revisions to: TILA, RESPA, HMDA, Fair Lending, and SAFE Act, among others. The cost to implement any regulatory change is high, and when faced with a tidal wave of regulation, the cost is astronomical. This is due to the multitude of processes that must be undertaken in connection with each new requirement. For example, when a regulatory change involves mortgage loans, financial institutions must, among other things: implement and test updated loan documentation systems to ensure the system accommodates the new requirements without affecting other existing requirements; train back-office and front-line staff; update policies and procedures to address all matters impacted by the regulatory revisions; prepare audit and compliance departments; engage legal counsel's review of all matters surrounding the changes; and educate consumers of the changes made to the mortgage lending disclosures.

The costs to implement each new area of regulation are passed on to consumers. Thus, as costs to implement regulatory changes increases, consumers will likewise experience increased costs. This reality is juxtaposed with a key intention of Congress under the DFA—to limit costs to consumers for mortgage products. WBA believes that one sure way to minimize costs imposed upon consumers is for FRB, and other

agencies, to take a more planned, orderly and coordinated approach to mortgage lending reform, rather than finalizing proposals without consideration to that which is mandated under the DFA.

The current piecemeal approach to regulation also affects the availability of sound housing finance options. Whether regulatory changes are big or small, they have a significant impact on the technology upon which institutions rely to comply with such changes. The continuous, piecemeal changes in the last 24 months have stretched these systems to their limits. Systems cannot be modified as quickly as these various rulemakings have and would impose. And, in some cases, rulemaking has inadequately analyzed the complexities of mortgage lending which has led to the inability to generate disclosures that properly document certain sound and traditional mortgage loan products.

Examples of this include HUD's RESPA rule, which made it difficult to offer products with a payment frequency of other than monthly (which necessitated the issuance of numerous "Frequently Asked Questions") and, most recently, FRB's Interim Rule implementing the final phase of the Mortgage Disclosure Improvement Act published in the *Federal Register* on September 24, 2010. The interim final rule did not address proper disclosure of certain loans, including mortgage loans with irregular payment intervals or level principal reductions and construction/permanent mortgage loans under Appendix D of Regulation Z. When proper disclosures cannot be generated for a particular product, financial institutions are not likely to offer the product because of the regulatory risk that would otherwise exist.

These unintended consequences are another illustration of the need for a more planned, orderly and coordinated approach to rulemaking, particularly in light of the massive mortgage reform now presented by the DFA.

WBA believes that a carefully planned, orderly and coordinated approach to rulemaking which places the DFA-mandated disclosures as the first priority, followed by possible revisions to Regulation Z in light of the DFA, will result in more meaningful disclosures and fewer unnecessary costs to financial institutions and consumers, while still ensuring sound housing finance options are available to consumers.

For these reasons, WBA respectfully requests FRB to defer finalization of its proposal, until the integration of TILA and RESPA disclosures and other mortgage lending reform, mandated under the DFA, is complete.

WBA would like to, once again, acknowledge the significant effort FRB has set forth in its review of Regulation Z in this very challenging time of massive legislative and regulatory change. WBA appreciates the opportunity to comment on this very important matter.

Sincerely,

Kurt R. Bauer
President/CEO