



OHIO CREDIT
UNION LEAGUE

May 2, 2011

VIA E-MAIL TO: regs.comments@federalreserve.gov

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

RE: **Docket No. R-1406 and RIN No. 7100-AD 65**
Truth in Lending – Changes to Escrow Requirements under Dodd-Frank Act

Dear Secretary Johnson:

The Ohio Credit Union League (OCUL) appreciates the opportunity to comment on the Federal Reserve Board's Proposed Rule implementing Sections 1461 and 1462 of the Dodd-Frank Act.

The comments reflected in this letter represent the recommendations of the Ohio Credit Union League. The Ohio Credit Union League (OCUL) is the trade association for credit unions in Ohio and advocates on behalf of 390 credit unions and their 2.7 million members in the state of Ohio. We appreciate the opportunity to provide suggestions and feedback to the Federal Reserve Board prior to adoption of any rules as proposed.

Summary of Proposal

Sections 1461 and 1462 of the Dodd-Frank Act require the amendment of Regulation Z (Truth in Lending) in regard to the required establishment of an escrow account for certain higher-priced mortgage loans, and adds disclosure requirements, lengthens the period for which escrow accounts are required, and adjusts the rate threshold for determining whether escrow accounts are required for "jumbo loans" whose principal amounts exceed the maximum eligible for purchase by Freddie Mac. In addition, the Proposed Rule creates an exemption from the escrow requirement for transactions originated by creditors meeting certain prescribed criteria.

New Escrow Disclosures – Content and Timing

Proposed §226.319(f)(1) contains format requirements for new disclosures required under §226.19(f)(92). The Proposed Rule also contains Model Forms H-24 (when an escrow account is established) and H-25 (when an escrow account is not established). Creditors will be required to provide disclosures substantially similar to the Model Forms to consumers where an escrow account is required to be established under this Rule and to consumers where an escrow account will be established voluntarily.



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Information in the disclosure must be in tabular format, in a minimum 10-point font, and must be grouped together on the front of a separate one-page document. The disclosure must be given to the consumer 3 days prior to consummation of the loan transaction. If the disclosure is sent to the consumer via mail, receipt is presumed to have happened 3 days followed the placement of the disclosure in the mail.

OCUL notes that one of the stated objectives of the Dodd-Frank Act was to lessen the confusion for consumers when entering into a credit agreement. Although the information required in the disclosure under this Proposed Rule is important information for the consumer to receive, OCUL questions whether a new separate disclosure lessens the consumer's confusion or whether the information in the disclosure could be incorporated with similar information required under the Real Estate Settlement Procedures Act (RESPA). Further the addition of another separate disclosure, with its own timeframe for presentation to the consumer, may serve to introduce another potential delay in the closing of a real estate loan.

Definition of "Rural" or "Underserved" Areas

The Dodd-Frank Act provides considerable discretion for the Federal Reserve Board to allow exemptions to its requirements for escrow accounts for higher-priced mortgage loans secured by a first lien on a consumer's principal dwelling. One of those exemptions is for a creditor who operates predominantly in rural or underserved areas, using a county as the defining area.

The Board proposes to define a "rural" county as one which is not in a metropolitan statistical area or a micropolitan statistical area as defined by the U.S. Office of Management and Budget, and not adjacent to any metropolitan or micropolitan area. To further define the term, the Board proposes using "urban influence codes" as maintained by the Economic Research Service (ERS) of the U.S. Department of Agriculture, using codes 7, 10, 11, and 12. The Board believes that these 4 codes represent the most remote rural areas, where ready access to the resources of larger, more urban communities and mobility are most limited.

The Board also proposes to define "underserved" by creating a test where the area in question is served by no more than two creditors who are significantly active (measured by extending mortgage credit at least five times in a year), and therefore the withdrawal of one of the two creditors from the market would leave no meaningful competitor.

OCUL supports an exemption for creditors predominantly serving rural or underserved areas. However, there are already definitions of these terms in use by NCUA, including the definition found in the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund) Program and in 12 U.S.C. §1759. OCUL urges that the Board include these definitions in the exemption for creditors predominantly serving rural or underserved areas.

Additional Exemptions to the Escrow Requirements

The Dodd-Frank Act also allows the Board discretion to create exemptions to the rule requiring establishment of escrow accounts for higher-priced mortgages. Other permissible exemptions

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include one based on a limit to the number of mortgage loan originations in a year; one based on retention of mortgage loan originations in the financial institution's own portfolio; and one based on asset size of the financial institution. For reasons discussed in the Supplementary Information, the Board declined to institute any of these permissible exemptions.

OCUL urges that the Board reconsider its decision and that it institute further exemptions as permitted in the Dodd-Frank Act. The other permissible exemptions were included to allow the Board to lessen the regulatory burden on smaller financial institutions, including many credit unions, and their addition would carry out this intent by exempting them from the requirements of compliance with the Proposed Rule.

“Evasion” Prohibition

Section 226.45(d) in the Proposed Rule states that “... a creditor shall not structure a home-secured loan as an open-end plan to evade the requirements of this section.” Open-end loans granting a Home-Equity Line of Credit (HELOCs) are a common type of lending product, and are secured by a lien on the consumer's home. The provisions of §226.45(d) might be construed as preventing creditors from offering such products.

OCUL requests that the Board clarify this Section, either in the Proposed Rule or the attached Commentary, to state that this provision is not intended to limit the ability of a creditor to offer open-end mortgage products.

Timing of the Proposed Rules

This Proposed Rule is effective July 21, 2011, under the terms of the Dodd-Frank Act. This date is less than 90 days from today. In order to comply with this Proposed Rule, many smaller institutions, such as credit unions, relying on third-party providers for services such as data processing or software, will typically need a longer timeframe to institute procedures. Implementation of needed software for processing mortgage loans under the Proposed Rule would otherwise require expedited development, increasing the costs of implementation and in addition increasing the risk of errors included in newly-developed software solutions.

OCUL urges that the Board set an effective date for this Proposed Rule of no less than six to twelve months after its publication to allow financial institutions to come into compliance. This is particularly important given the other recent changes necessary to come into compliance with other changes made to Regulation Z, such as the changes required under the Mortgage Disclosure Improvement Act, effective as of January 30, 2011.

Conclusion

The Dodd-Frank Act mandates changes to Regulation Z (Truth in Lending) practices concerning disclosure of escrow accounts and the requirement that such escrow accounts be established for higher-priced mortgage loans secured by a first lien on a consumer's principal dwelling.

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These new disclosures introduce a new form to be given to consumers. OCUL recognizes the importance of the information included on the new disclosure, but suggests that any new disclosure given in connection with a mortgage loan be coordinated with existing disclosures given to consumers to reduce confusion for consumers and lessen the regulatory burden on financial institutions such as credit unions.

The Proposed Rule provides an exemption for creditors predominantly serving rural or underserved areas, and provides a definition of each term. OCUL suggests that in the alternative to these definitions, or as an additional definition, the Board use the definitions provided in the U.S. Department of the Treasury's CDFI Funds Program and in 12 U.S.C. §1759.

The Board decided to omit some additional permissible exemptions to the escrow requirements for higher-priced mortgage loans that were included in the Dodd-Frank Act, such as one based on retention of loan originated in the financial institution's own portfolio or ones based on number of loans originated or asset size. OCUL urges the Board reconsider this decision and include the exemptions, which will allow smaller financial institutions to manage their own credit risk at minimal potential effect on the larger financial system by exempting them from a requirement to establish escrow accounts.

Due to the risk of misinterpretation of the Proposed Rule §226.45(d) as prohibiting certain open-end mortgage products, OCUL requests that the Board clarify its Proposed Rule to prevent such misinterpretation.

Although the Dodd-Frank Act dictates that the Proposed Rule come into effect on July 21, 2011, many smaller financial institutions who are reliant on third parties for data processing or software services may not be able to modify existing systems or practices prior to that date or may be forced to incur significant additional expense for expedited software development. Accordingly, OCUL requests that the Board delay its implementation of the Proposed Rule by at least six to twelve months following publication to allow such financial institutions time to come into compliance.

OCUL appreciates the opportunity to present comments on behalf of Ohio's credit unions to the Board on its proposed rules for escrow accounts. Thank you for your consideration of the comments presented. If you have any questions, please contact me at (614)923-9766 or jkozlowski@ohiocul.org

Sincerely,



John F. Kozlowski
General Counsel



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