

**Commerce Bancshares, Inc.**  
Compliance Department, TB12-1  
922 Walnut St., P.O. Box 13686  
Kansas City, MO 64199-3686

January 3, 2010

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Delivered via email:  
regs.comments@federalreserve.gov

RE: Regulation Z; Docket No. R-1393; RIN No. 7100-AD55 – Truth in Lending

Dear Sir or Madam:

Commerce Bancshares, Inc. (CBI) is a regional bank holding company with one bank subsidiary, Commerce Bank, N.A. (Bank), and total assets of \$18.8 billion at September 30, 2010. The Bank is a full-service bank, with approximately 370 banking locations in Missouri, Illinois, Kansas, Oklahoma, and Colorado and credit card operations in Nebraska. A full line of banking services, including investment management and securities brokerage are offered. CBI also has operating subsidiaries involved in mortgage banking, credit related insurance, and private equity activities.

We appreciate the opportunity to comment on the proposed rule clarifying final Regulation Z rules issued by the Federal Reserve Board of Governors and published in the Federal Register on November 2, 2010.

**Definition of Credit Card – Section 226.2(a)(15)**

The Board proposes to broaden the definition of the term “credit card” to include all open-end consumer purpose lines of credit to purchase goods or services. Under that interpretation, traditional check-accessed lines of credit become subject to the protections of the Credit Card Act.

We strongly oppose the proposed interpretation. We and many other financial institutions offer a traditional check-accessed line of credit product which is used by customers for overdraft protection and for purchases of goods and services. We note that the Board’s new definition of credit card specifically excludes an overdraft line of credit; however our check-accessed line of credit can be used for that purpose and many customers use it only for that purpose. We would appreciate additional guidance on whether a check-accessed line of credit which is used for overdraft protection and can also be used to purchase goods and services is a “credit card” under

the proposed definition. Will a customer be limited to a choice of using the line of credit only for overdraft protection (exempt) or only for purchases of goods and services (covered)?

If the broad definition of “credit card” is adopted, we will be required to revise compliance policies and procedures, application and account-opening disclosures and other consumer communications used in connection with our line of credit products. The cost and time involved, when combined with all the other changes we have made to comply with the Credit Card Act is staggering. Not only will the costs ultimately be passed along to consumers in the form of higher rates and fees, but we may decide to discontinue offering products that consumers have used for years.

### **Loss of Employee Preferential Rates - Section 226.5a(b)**

The Board asks whether there are other types of preferential or reduced rates that are not introductory rates for which treatment similar to loss of employee preferential rates would be appropriate. We suggest that student preferential rates should be treated the same way as employee preferential rates. A lower interest rate may be offered to a student until graduation at which time the rate increases. Preferential rates may also be offered to customers with other bank relationships such as the ownership of a certain type of account. When the customer no longer has the required relationship, the rate increases. Neither type of preferential rate is an introductory rate; however, we believe they should be treated similarly.

### **Ability to Pay – Section 226.51**

The Board is soliciting comments on whether it would be appropriate to provide greater flexibility in considering household income or assets where an applicant does not have an independent ability to pay and state law does not give the applicant an ownership interest in the household income or assets.

The Board should consider the discriminatory impact that the proposed rule will have on women who rely on their spouse’s income to maintain a household and who have access to household income or assets, but do not have an ownership interest under applicable state law. Such women will not meet the independent income test proposed and will not be able to get credit, unless their husbands are joint applicants. If the Board factors in the current high divorce rate in the United States, women emerging from marriages that end in divorce could have no or an insufficient credit history, despite a lifetime of responsibly managing household finances. Women who stay home to take care of others, for whatever reason, are vital to the culture. To adopt the independence test is effectively to devalue the role of the housewife and unpaid family caregiver. If such women have access to household income or assets, they should be able to rely on such income or assets in order to have access to credit. We believe that the impact of the proposed test will be to discriminate on a prohibited basis.

If a single applicant lists household income instead of independent income, the credit risk to the issuer is not increased, and could in fact, decrease. If the applicant has minimal independent income, the interest rate offered to the applicant might be less favorable, because of perceived credit risk, than if household income were considered. In cases where the applicant has full

access to household income or assets, and credit is granted based on household income or assets, the interest rate offered might be more favorable. Since many of these situations will involve stay-at-home women, credit risk is not a reason to justify the independent income test. Again, the result is a disparate impact on a prohibited basis.

Because an issuer is not required to verify income, there is no way to confirm the accuracy of the income listed as independent income and thus, no way to know whether the issuer is granting credit in compliance with the rule. Applicants who understand that there is no verification of income could deceive the issuer in order to get credit and the issuer will not know about the deception. Since the Credit Card Act does not require independent income except for applicants under the age of 21, we see no reason to impose a requirement that is essentially unenforceable and could encourage deception.

Under the proposed rule, if state law gives an applicant an ownership interest in household income or assets, credit may be granted based on such interest. If issuers are required to review and analyze state law in connection with credit card applications, the underwriting process will have a strikingly increased level of complexity. In addition, applications and disclosures will be required to be state-specific which will increase costs that are ultimately passed on to the consumer in the form of higher rates and fees. Allowing issuers to continue to consider household income if the consumer wishes it to be considered, avoids the necessity of increasing rates and fees in order to comply with the proposed requirement to review state law.

### **Limitations on Fees – Section 226.52**

The Board is proposing to amend Section 226.52(a)(1) to apply to fees the consumer is required to pay before account opening and during the first year after account opening and to clarify when the one year period begins. As proposed, the beginning of the one year period would be “no earlier than the date on which the account may first be used by the consumer to engage in transactions.” The Board is soliciting comments on operational difficulties posed by the proposed amendment.

We believe that the beginning date should be the date when the account is built by the system, not the date of first use. If the card is an instant-issue card, the beginning date could be as early as the same day of application. If the proposed definition is adopted, we will be required to add new fields and programming to our system. The time involved would be significant and the costs ultimately passed to the consumer in the form of higher rates and fees.

In addition, there will undoubtedly be confusion by customer service personnel if there is more than one beginning date (the day the account is built and the day of first use). It would be much easier and transparent for the consumer if there were only one beginning date: the day on which the account was approved and built.

### **Rate Reevaluations – Section 226.59**

The proposed commentary provides that a change from a variable rate to a non-variable rate, or *vice versa*, would not be a rate increase for purposes of rate reevaluations unless at some point after the change occurs the variable rate exceeds the rate that would have applied if the change in type of rate had not occurred.

We will have to keep information about both the old and new rates on the account to be able to make this determination. We are concerned that we would have to track rate movements on these accounts for the entire life of the account.

The rate reevaluation process is a complex one. Adding another layer to it, for change in type of rate, makes the process even more complex. We recommend either adding a time limit for the tracking of rate changes and comparing old rates to new or eliminating this requirement altogether.

### **Pricing Information – Section 226.58(b)(6)**

The Board is requesting comments on whether the definition of pricing information should continue to include some or all of the additional disclosures regarding rates or whether the Board should omit this disclosure from the definition.

We suggest that the pricing information disclosure show either the APR and the margins or the current index and margins with information about the index (source, frequency and timing of changes) and the balance calculation method because consumers need this information in order to be able to shop for credit.

We also request that the Board develop a model form for pricing information that all issuers could use. A model form would assist us in complying with pricing information disclosures and also assist the consumer in understanding the information disclosed and comparing credit card products from different issuers.

Thank you for giving us the opportunity to comment on the proposed rules.

Sincerely,

Commerce Bancshares, Inc.

Elizabeth Reefer  
Compliance Officer