October 15, 2012

Via Electronic Delivery: http://www.regulations.gov.

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Proposals regarding: (1) Appraisals for Higher-Risk Mortgage Loans, Docket No. CFPB-2012-0031 and RIN 3170-AA11; and (2) Equal Credit Opportunity Act (Regulation B) – Appraisals, Docket No. CFPB-2012-0032, RIN 3170-AA26 (the "Appraisal Proposals").

Dear Ms. Jackson:

I am writing to comment on behalf of Access National Bank, a community bank in Northern Virginia with total assets of approximately $800 million. We are primarily a business oriented bank, with the vast majority of our assets in Commercial lending products. We originate consumer lending products as an accommodation to our customer base, and have a mortgage division that originates mortgage loans for sale. Our current bank staff numbers about 125, most of which supports a vibrant and growing bank that is 11 years old, and has a record of over 48 continuous quarters of profitability.

We are concerned that the Appraisal Proposals and numerous other mortgage lending proposals impose substantial new burdens and costs on us, and that this will cause us to scale back or cease offering certain products that are sorely in need by our customers. Ultimately, this will harm consumers and severely weaken the already fragile economic recovery in Virginia and the nation.

Issues Specific to the Appraisal Proposals.

In the limited time we have had to consider the Appraisal Proposals, we note the following issues. This is not an exhaustive list and other issues exist. We encourage the CFPB and other bank regulators to consider these and other issues raised by the Virginia Bankers Association and around the country as well as by the American Bankers Association and other organizations representing banks in other states and nationally.

- **Allow banks to recover the reasonable cost of copying and mailing appraisal reports.** Very few of our customers request appraisals of the properties they are buying. While we are happy to provide these when they are requested, some appraisals require time and effort to produce, and therefore we should be able to recoup our costs on only those customers that desire to have copies. Additionally, most of our appraisers provide the appraisal to the bank for the express reason of providing information for a pending loan – not to share the report with the customer. If this clause is adopted, we will need to have the appraisers' permission to provide these reports to the customer. In the case where the borrower disagrees with the appraiser, it is most likely to result in the appraiser spending increased time with the borrower, which will then raise the cost of appraisals.

- **We do not support imposing on banks the costs and apparent obligation of protecting consumers from fraudulent house "flipping"**. We commend the banking agencies' efforts to protect consumers from fraudulent house flipping. However, requiring a second independent appraisal in situations where the property is being purchased from a seller who acquired the property within six months prior to the borrower's purchase of the property increases our borrowers' costs. It would be more reasonable and efficient to add a requirement that an appraiser has, for federally regulated transactions, a duty to disclose in the appraisal sales within the prior six months of the subject property and any commentary about the change in value over the time lapsed for the subject as compared to observations of the general market. We would support sanctioning appraisals that were found to be flawed materially.

- **Allow banks ten business days to notify borrowers of their right to receive a copy of an appraisal.** Mandating that we notify borrowers of their right to receive a copy of an appraisal within three business days of receiving an application will necessarily limit the time banks have to begin other, often more important, procedures when we receive a loan application. To comply with this requirement, we will need to revise our internal procedures, upgrade our computer systems and re-train our employees. Ultimately, the three business day requirement will slow the loan approval process and increase loan costs. Instead, we should be allowed to efficiently and effectively prioritize the tasks we spend time on. Consumers can be informed by simply extending the required notice period from three business days to ten business days.

- **Do not change the APR regulation and reject the "all-in APR" approach.** Banks have, for many years, been operating under a level playing field in terms of the comparative cost of credit by calculating the APR according to a standard promulgated by the FFIEC agencies. Changing this now only adds costs to the process, and does not allow any additional information for the customer to make a fair comparison. The CFPB should limit the number of loans that will be subject to the higher-risk mortgage loan rules (and the high-cost mortgage rules as well) by not adopting the "all-in APR" approach. This will help to mitigate the amount of new costs, legal liabilities and other burdens these rules will impose on lenders and their customers. For regulatory and administrative efficiency reasons, we also oppose the "transaction coverage rate" alternative. While it might limit the number of higher-risk and high-cost mortgages, it would require two regulatory definitions instead of one, and would unnecessarily double the administrative burden of compliance by requiring two different complicated calculations when one is perfectly adequate.

Too Many Regulations.

In addition to the Appraisal Proposals, numerous other regulations have been proposed in recent months that will profoundly change the mortgage and banking business. These include two mortgage servicing proposals, the ability to repay/qualified mortgage proposal, the risk retention/qualified residential mortgage proposal, the high-cost mortgage proposal, the RESPA/TILA mortgage disclosure proposal, the mortgage loan originator compensation/no points, no fee alternative proposal, and the Basel III capital ratios and risk-weighted assets proposals. While many individual regulations designed to protect consumers or the safety and soundness of banks may be well intentioned, the cumulative effect of multiple regulations targeting the same products and services will often make it impossible for us to efficiently offer those products and services. We may need to increase the fees charged for these products and services or stop offering them altogether. In turn, borrowers who relied on those products and services will be deprived of affordable credit, and in the current state of the economy in the US, we think that this series of proposals can be more efficiently instituted given more time and thought.

For example, the Appraisal Proposals, high-cost mortgage proposal, ability to repay proposal and Basel III proposal all target nonconforming loans. Nonconforming loans make up a significant portion of the loans made by many banks, including Access National Bank. Nonconforming loans serve a large segment of borrowers who cannot satisfy the Fannie Mae and Freddie Mac conforming loan guidelines.[1] These loans provide many borrowers with an opportunity to build equity in their homes, enjoy the other benefits of homeownership while they build or rebuild their credit reputation, or invest in small business.

Nonconforming loans are subject to increased risk weights under the Basel III proposals, which will greatly increase the capital costs of banks holding these loans. The "high-cost mortgage rule" imposes additional restrictions on many nonconforming loans that have annual percentage rates ("APR") that exceed the average prime offer rate ("APOR") by certain percentages. The new "ability to repay rule" increases the administrative burden and legal liability to us when we make nonconforming loans that are not "qualified mortgages."

Individually, each of these rules makes it more difficult, expensive and risky for us to make nonconforming loans. Combined, these rules may make it impossible for us and banks like us to profitably make these loans at prices consumers can afford, depriving many borrowers of credit. This is particularly unwise in the current economic and loan underwriting environment where available credit for borrowers with less than perfect credit is extremely limited. As the CFPB and other bank regulatory agencies draft each new regulation, they

[1] These include individuals with below average credit qualifications; self employed people; people with unstable, infrequent or variable incomes; borrowers wishing to borrow more than 90% of the value of a property; and older borrowers for whom a 30-year repayment term is not appropriate. Nonconforming loans also include loans against properties that do not meet the GSEs' guidelines, such as manufactured homes; farmland and other large tracks of undeveloped land; properties that are subject to certain zoning ordinances, easements or encroachments; and properties with limited access.

must consider regulatory and compliance efficiency and the new rule's combined impact with other regulations.

More Time Needed to Review and Comment on the Proposals.

Well managed banks operate efficiently, effectively and profitably with lean staffs, tight budgets and narrow margins. We are busy running the day-to-day operations of our bank and developing strategies to address the challenges and opportunities of an uncertain future. We simply do not have the internal staff or budgetary resources to hire external lawyers, consultants and other experts that are needed to read, evaluate and provide thoughtful comments on reams of proposed regulations in a few short weeks. The industry was given less than 60 days to review and comment on the Appraisal Proposals. That simply is not enough time for us to adequately review and understand the impact the Appraisal Proposals and other mortgage regulations will have on the industry and provide meaningful comments to our bank regulators. The CFPB and other bank regulators must allow banks more than 60 days to evaluate how these proposals work and work together. Six months would be more realistic and reasonable.

Two years or More Are Needed to Implement the New Mortgage Lending Rules

Implementing the new mortgage rules will not mean simply amending a few existing bank policies. Collectively, the new rules will profoundly change the entire mortgage lending industry and the way we and other participants operate and the products and services we offer. We do not have the extensive resources needed to interpret thousands of pages of new regulations, evaluate the impact of those rules on our existing business strategies, develop new strategic business models, completely overhaul our operating procedures and re-train our employees in a short time frame. Moreover, we rely heavily on third-party vendors for many critical products, services, systems and processes. Most vendors do not have the resources to modify those products, services, systems and processes for each and every bank in the country all at once. The likely backlog of vendor modifications could significantly delay our compliance with the new mortgage regulations.[2] To help us ensure a smooth transition and minimize disruption to the credit markets and the fragile economic recovery, we should be given two years to implement the new mortgage lending regulations, including the Appraisal Proposals.

Before Issuing Final Mortgage Lending Rules, Study the Aggregate Impact They Will Have on the U.S. Economy.

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[2] A recent example of vendor backlogs delaying bank compliance occurred when new ATM requirements under the Americans with Disabilities Act were adopted with a short implementation period. Many ATM vendors could not keep up with simultaneous orders from banks all across the country for new or upgraded ATMs that complied with the new standards. The sole reason many banks failed to achieve compliance with the new regulations by the effective date was that their ATM vendor was unable to fulfill their order for a new or upgraded machine by the deadline.

Before issuing final appraisal and other mortgage regulations, the CFPB and other bank regulatory agencies should conduct a comprehensive study of the aggregate impact those rules will have on the banking industry and the American economy. Thousands of pages of mortgage lending regulations have been proposed in an extremely short period of time. All together, they will undoubtedly re-shape the mortgage lending industry. In light of this, it is grossly inadequate to study each rule individually. The aggregate effect of adopting all these new regulations at one time must be studied in order to confidently reassure the American public that the new rules will not have a calamitous effect on the U.S. economy.

Recommendations.

We have made several recommendations in this letter. We also strongly encourage the CFPB and other banking agencies to slow the pace of change, change one regulation at a time, closely monitor the real-world impact of each incremental change, and be prepared to act quickly to make corrective changes if unintended adverse consequences occur.

Thank you for your consideration of our comments.

Sincerely,

Fred J. Rubin
Chief Credit Officer
Access National Bank