FLORIDA BANKERS ASSOCIATION

September 2, 2014

The Honorable Janet L. Yellen
Chairman
Board of Governors of the Federal Reserve
20th and Constitution Avenue, NW
Washington, D.C. 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, Room 6098
Washington, D.C. 20249

The Honorable Thomas J. Curry
OCC Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, D.C. 20219

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, D.C. 20552

The Honorable Jennifer Shasky Calvery
Director
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, Virginia 22183

Dear Chairman Yellen, Chairman Gruenberg, OCC Comptroller Curry, Director Cordray and Director Shasky Calvery:

On behalf of the Florida Bankers Association (FBA), we are writing to you today in response to the first joint regulatory press release notice for comment issued June 4, 2014 and Congress's request for specific ways to reduce the regulatory burden on community banks. The FBA has been the voice of banking in Florida since 1888. Our association represents nearly 300 financial institutions of all sizes from around the state.

Today we would like to share with you the following ideas for alleviating the restrictive regulatory atmosphere under which traditional FDIC banks currently operate. As was the case two years ago, the FBA established a committee of bankers from around the state to study and examine current banking regulations to not only identify the most problematic, over-burdensome and outdated regulations, but also to come up with solutions for making them more efficient and conducive to banking.

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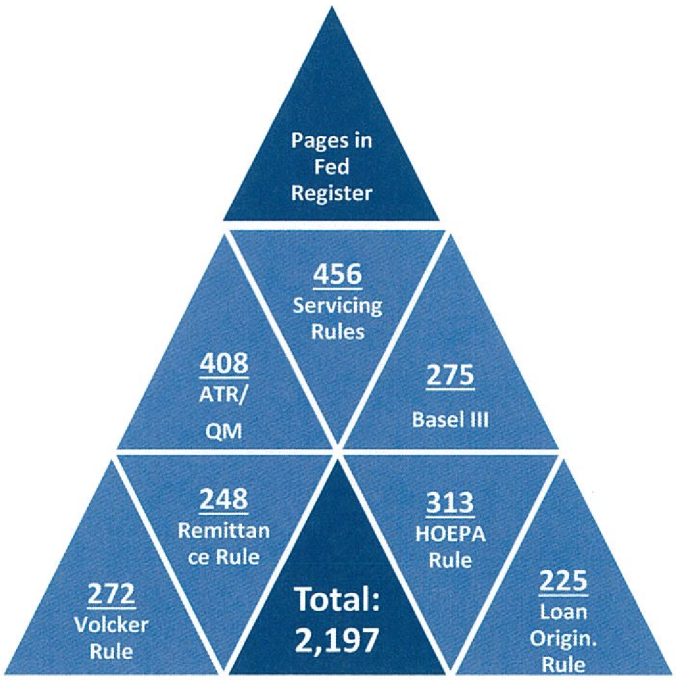
We realize that a strong regulatory system helps ensure a strong FDIC banking industry, and we also know that a strong and healthy banking industry makes for a better, stronger and healthier economy. To foster a healthy banking industry requires balance, yet the current regulatory scheme has proven insurmountable, stifling economic growth and making it difficult to contemplate the future of traditional FDIC banks.

Complying with so many different regulations has become increasingly expensive; both in terms of dollars paid and the services and products banks are able to provide customers. While Dodd-Frank was created with the intent to protect customers and foster stability within the financial system, in reality, it has only perpetuated the problems it was meant to solve, putting the squeeze on community banks that are not equipped to absorb these costs.



Dodd-Frank encompasses almost 6,000 pages of proposed regulations. To be added to that are the other thousands of pages of guidance and rules, some of which are highlighted to the left, that, further exacerbate the situation. With so many rules to keep up with, the number of compliance staff closely rivals, if not exceeds, that of lenders for many smaller institutions.

The banking industry was established to foster economic development, enhance the economy on local and national levels, and serve as the financial intermediary- not to fund the compliance business. Sadly, most banks have stopped hiring lenders and focus solely on compliance staff. Several community banks cannot afford these additional hires and have been forced to seek outside vendors, further impairing earnings. Others have gone another route, deciding to no longer offer certain loan and deposit products (such as residential loans) which have become bloated with compliance requirements and costs in addition to high non-compliance risk.

Will there be a future for community banking if this trend continues? While everyone says they are concerned about the future of community banks, the fact remains that little has been done to provide any relief. Instead, the avalanche of regulation continues. Many communities no longer have a locally based community bank and may not see one again. It has been almost six years since the last de novo was formed in the state of Florida. Will anyone want to start a new community bank in the future? The regulatory burden already imposed by Dodd-Frank coupled with the uncertainty that lingers as so much if it remains unwritten, has had a chilling effect on capital investment for both banks and small businesses. These are all big picture concerns that federal banking regulators and members of Congress need to address moving forward, as the number of community banks continues to decline.

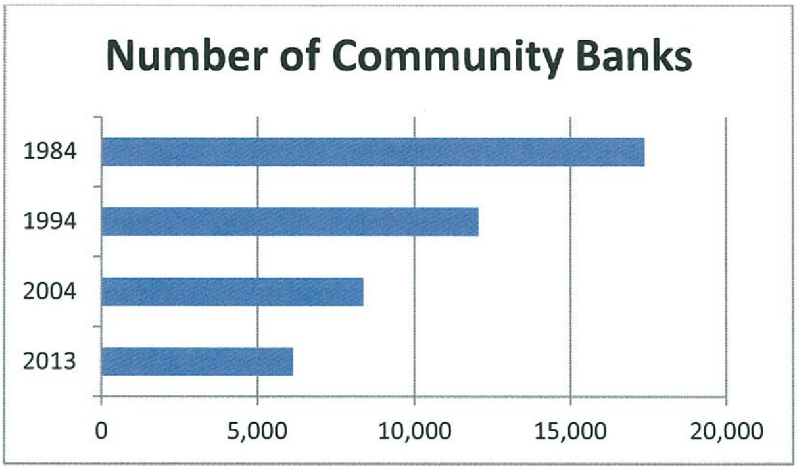


Figure 1: Date from Federal Deposit Insurance Corporation. (Number of banks with assets under $1 billion.)

The FBA is thankful for your request for comment and would greatly appreciate your consideration of the following areas when contemplating how to ease the regulatory burden felt by our nation's community banks. Adequately addressing the following issues concerning HMDA, the examination process, developing regulatory consistency, third party vendor management, Allowance for Loan and Lease Losses, and the Electronic Funds Transfers Act would offer the most common sense and cost effective help for our industry. Streamlining these areas would not only provide much needed relief, but would also offer our industry the opportunity to refocus on our intended purpose: loan origination. After all, every extra hour spent on compliance is an hour taken away from serving the community.

Keeping all of this in mind, we offer the following nine areas where serious reforms can be made to help lessen the regulatory burden felt by traditional FDIC banks:

I. The Home Mortgage Disclosure Act (HMDA)
II. Examination Reform
III. QM, ATR and Small Creditor Exemption
IV. Developing Regulatory Consistency
V. Third Party Vendor Management
VI. Electronic Funds Transfers Act Regulation E
VII. Allowance for Loan and Lease Losses (ALLL)
VIII. Call Reports
IX. Modernizing the Banking Regulatory Framework

The Home Mortgage Disclosure Act (HMDA)

The Home Mortgage Disclosure Act (HMDA) was created to help authorities determine if financial institutions were meeting the housing needs of their communities, to assist public officials in distributing public-sector investments to attract private investments to areas in need, and to identify discriminatory lending practices.

Currently, the rule provides exemptions for "small banks". These are institutions with assets of $43 million or less (adjusted annually) that do not have branch offices located within a metropolitan area. While the CFPB's new proposal would contain an exemption (<25 loans), it is not in line with the CFPB's small creditor Exemption as defined in Regulation Z, Section 1026.43 (less than $2 billion in assets and 500 or less first-lien mortgages subject to the Ability to Repay rules (ATR)).

The current HMDA exemptions were applied to counteract the burden compliance costs have on small banks, which do not create a noticeable impact on the overall mortgage industry. Historically, small banks are known for providing mortgage lending services at lower costs to consumers and have not engaged in riskier lending practices that have plagued the national mortgage industry.

The CFPB's proposed data expansion, which goes beyond the requirements of Dodd-Frank, HMDA, and Regulation C, completely overreaches the fundamental purposes for which HMDA was created.

HMDA was designed to protect consumers against discriminatory lending practices however, the new proposal does so at the expense of small banks and their ability to provide mortgage lending products to their customers. The very Act designed to protect consumers against discriminatory lending practices may unintentionally discriminate itself, forcing borrowers to pursue credit from unregulated avenues as an alternative to the soon to be unaffordable bank products. As seen below, the market share of non-bank mortgage services has nearly tripled over the past three years and high-cost, high-burden regulation like that proposed may help continue the trend.

Figure 2: Excessive Banking Regulation Pushes Business to Less Regulated Shadow System, *Source: "Mortgage market Gets Reshuffled," The Wall Street Journal, March 9, 2014. Data includes the 30 largest services.*

The FBA encourages the CFPB to conduct a study re-evaluating the overall risk small banks pose to the national mortgage industry while standardizing the small bank definition found in Regulation C, across regulatory lines.

> **Example:** The current small creditor exemption contained in Regulation Z Section 1026.43 could serve as the definition for small bank across the board ("Institutions with assets bellow $2 billion at the end of the calendar year and that originate fewer than 500 first-lien mortgage loans per year") exempting institutions that meet this definition from additional and/or reporting requirements.

Examination Reform

As the FBA visits with members across the state, the topic most often talked about is the federal examination process. While the FBA understands the importance of the examination process and the need for safety and soundness, there seems to be a lack of consistency when it comes to application of regulations by bank examiners. This is further complicated by the fact that banks are hesitant to challenge a regulator's decision out of fear of retaliation in some way, as regulatory agencies have great power over the future of our institutions.

A good example of this is when dealing with the Bank Secrecy Act (BSA) Examination; bankers are constantly troubled by inconsistent application of standards. Examiners have not adequately applied the FFIEC guidance accounting for an institution's risk profile in relation to the specific characteristics of the communities it serves. This holds especially true for institutions in rural communities where examiners apply metrics that are more appropriate for an institution located within a metropolitan, high risk area.

The FBA recommends the following as ways to help develop consistency and fairness in the examination process:

- Establish checks and balances to ensure examiners are following the procedures set forth in the FFIEC BSA/AML Examination Manual.
- Require heightened experience qualifications for examiners.
- Bolster training programs to better equip examiners to determine aggregate risk profiles for individual banks, paying close attention to the information contained within a bank's risk assessment.
- Establish independent and transparent review process, where bankers may raise challenges to an independent ombudsman, in whom a bank can establish trust.

QM, ATR and the Small Creditor Exemption

Today banks face very tight standards when it comes to credit and underwriting. The Qualified Mortgage (QM) and Ability to Repay (ATR) rules present a lot of concern for community banks as many of their relationship-based loans may not fall into clean boxes as prescribed by the rule. If lenders are not confident in their ability to comply, they tend to be very cautious in lending, thus restricting credit and slowing economic recovery. Even worse for consumers is the fact that some community banks are contemplating getting out of the mortgage business altogether (a trend we are already seeing in Florida).

Black and white rule making like this does not make sense for community banks participating in the mortgage business. For example, an individual with extensive assets but little income, whom the bank knows to be a reliable customer, would not qualify as a QM. The FBA appreciates the CFPB's attempts to ease the impact these provisions have on community banks, who rarely participate in exotic or non-conventional mortgages loans like those seen a few years ago; in reality, it will prove inconsequential.

The FBA would suggest considering grandfathering all HELOCs and balloon mortgages that were initiated prior to ATR that were secured by residential property, and help encourage the passage of HR 1750, the CLEAR Act, which grants qualified mortgage status for any mortgage originated and held in portfolio for at least three years by a lender with less than $10 billion in assets and exempts from escrow requirements any first lien mortgage held by a lender with less than $10 billion in assets.

As the current QM/ATR rules continue driving traditional community banks out of the mortgage business, additional problems are likely to arise as the small creditor exemption sunsets in January 2016.

In June 2013 and August 2013, the CFPB provided temporary exemptions to small creditors. These exemptions were designed to ease the burden of compliance as felt by our smaller institutions that make mortgage loans in designated rural and underserved areas.

With the goal of ensuring that credit remains available in these areas, the exemptions provide protections to lenders who have demonstrated the value of relationship-banking by offering affordable and sustainable lending products that aid in community stabilization.

As reported by the FDIC Community Banking Study, almost one out of every five U.S. counties has no other physical banking office, except those operated by a community bank. We must ensure those that exist remain there. One way to make sure these areas continue to be served is to make the exemption permanent. This would protect consumers in these communities while continuing to provide much needed relief for small creditors.

Decreasing Duplicity While Creating Consistency

With so many rules coming down from every which way, bankers find it difficult to keep up. This is further complicated by the fact that often times these rules will conflict. While one agency has one requirement, another agency may require something totally different. These seemingly trivial differences add up, resulting in extra work and extra costs. The FBA asks that the different regulatory bodies come together to streamline and standardize banking regulation as much as possible, especially when it comes to defining commonly used terms. Where such cannot be done, we ask for better guidance, especially on topics like Flood Insurance and UDAAP.

Below are some areas the FBA's committee thought a quick and easy standardization could prevent unnecessary hassle and cost.

To further illustrate this point, please see the charts featured in the appendix (on page 17) entitled: Fostering an Efficient Regulatory Environment and Lending Regulations- When Does What Rule Apply?

- Decreasing Duplicity
  - Fair Credit Reporting Act/FACTA: combine the two regulations to eliminate duplication.
  - Section 1000 of Dodd-Frank: when dealing with the credit score requirements on adverse action notice--eliminate the requirement if it was already provided at application.
- Creating Consistency
  - Remove the references to HELOC disclosure from RESPA.
  - Have the CFPB put all coverage requirements for disclosures in a single location.
  - Have the CFPB place all instructions for completing the new disclosure statements in a single location.
  - Divide TILA Open End Credit sections into 3 separate categories: 1) credit card accounts 2) home equity lines of credit; and 3) open end credit that is neither of the other two.
  - "Temporary financing": make the definition the same across all regulations.
  - "Business Day": make the definition the same across all regulations.
  - "Application" and "Completed Application": make the definition the same in all consumer regulations (Reg B, HMDA, RESPA and Fair Credit Reporting Act).
  - HMDA and Bank Assets: the Definition of Bank asset size for reporting should mirror that of the CRA definitions (small, intermediate-small and large- adjusted annually).

- Guidance
  - **Flood Insurance**: While the FBA is thankful that Congress passed significant reform to Biggert Waters in 2014, there remains a lack of guidance on how to implement these new changes as well as other provisions left over from before. FEMA has not established any sort of guidance and our industry is often pointed in the direction of inter-agency Q&As made available, but these tend to be outdated and in need of reworking. (Interagency Q&A was last updated October 17th, 2011.)

    The FBA would encourage more in-depth guidance on this subject generally as bankers make the necessary changes to comply with the new language. Section 13 of HR 3370 deals with detached structures, yet provides no definition as to what constitutes one. It also gives lenders the flexibility to require insurance on the structure if it "contributes value to the collateral," which is very ambiguous, leaving regulators to interpret everything as contributing value.

    Additionally, we would like to point out that the supplementary notice required for commercial loan properties in flood zones for every renewal, increase, or extension is not beneficial as long as the existence of the current flood insurance is verified by the bank, and the bank obtains life of loan determinations at inception. Requiring these additional reviews of policies and increasing flood coverage on existing loan portfolios without specific guidelines is not efficient.

  - **Unfair Deceptive or Abusive Acts or Practices (UDAAP)**: The far reaching and subjective interpretations of fair lending practices and abuses can be costly to a bank in terms of both reputation and fines/legal fees required to properly defend a community bank when isolated omissions or procedures are the focus of examination instead of the actual fact pattern in an instance of discriminatory practices or lending. Fair lending is quickly becoming "fair banking" due to the overreaching and ambiguous UDAP and UDAAP interpretation.

    ***Example**: Charging a fee to receive paper statements when e-statements are available. This could be interpreted as discriminating against low-mod income persons who do not have access to a computer.*

Third Party Vendor Management

The FBA appreciates the great value in banks fully understanding the source of funds and beneficial ownership structure for their customers and clients. We also recognize the importance of banks having knowledge when it comes to our customers' customers, or third parties, which may move monies through the account domiciled at the bank. For example, one of our institutions banks many title companies and law firms whose clientele park monies in escrow at the bank. This bank makes every effort to understand where those monies come from, often times seeking closing statements as proof of source of funds, or articles of incorporation/bylaws as proof of ownership structure. Asking for this type of information seems reasonable and fair and can be obtained quickly.

However, there has been a recent trend to go beyond that, where the bank staff feels much more like police officers rather than bankers. Banks should not be held liable where third parties (our customers' customers) are not fully forthcoming when the bank has done its due diligence otherwise. How can a bank be held responsible in these types of situations where it is unlikely there will be direct contact with the third party?

The burden placed upon banks when it comes to due diligence as it relates to all vendors- clients or not- has become increasingly onerous. While banks will meet, if not exceed, regulatory expectation, there is only so much a bank can feasibly do. Regulators need to develop trust in the mechanisms banks already have in place, giving, for example, more deference to a bank's BSA risk assessment. Banks should be focused on serving their communities in a safe and sound manner. Our members, particularly the smaller institutions, do not have the resources to function as quasi-governmental law enforcement agents, patrolling for activities or industries the Administration deems unfit.

Electronic Funds Transfers Act (Reg E)

The FBA asks that both Congress and the regulatory agencies revisit the Electronic Funds Transfers Act / Regulation E's consumer protections for unauthorized transactions, including the definition of an unauthorized transaction. Transactions conducted with a personal ID number (PIN) should be presumed valid unless the consumer can show proof the transaction was unauthorized.

Today merchants bear no liability for not ensuring the person conducting the transaction is the lawful owner of the account and access device. In most cases, the unauthorized transaction was conducted by a relative and/or friend who was given the PIN by the consumer and/or the consumer was negligent in protecting their PIN. If the consumer shares their PIN and/or writes it directly on the access device, the consumer is negligent and the bank should not be held liable and should not have to absorb the costs associated with the consumer's negligence.

Additionally, the law should provide the bank with the ability to extend the 90 day investigation period when circumstances outside the bank's controls cause the delay. This holds especially true for point of sale (POS) debit card disputes. Merchants should be required to respond timely to a bank's request for documentation regarding a disputed POS transaction. If the merchant is unable to provide supporting documentation, they should bear the cost of the dispute since, in most cases, they did not validate the ID of the individual conducting the POS transaction. One merchant validation suggestion would be to have the merchant request the individual provide the zip code for the billing address on file for the account to be accessed. Merchants require this today for POS transactions conducted at a self-serve gas pump so the transition to require this level of identification for all transactions should not require substantial effort by the merchant.

Allowance for Loan and Lease Losses (ALLL)

The financial crisis brought to light many accounting and financial reporting implications related to the allowance for loan and lease losses (ALLL), troubled debt restructurings (TDRS), and foreclosed assets, requiring many financial institutions to become familiar with applicable standards and closely monitor evolving accounting developments as credit quality declined. While credit quality has certainly started stabilizing, accounting in this area continues to evolve and bring about new issues.

As an association we understand that ALLL must be maintained at a level sufficient to absorb both expected and unexpected losses from the loan portfolio. However, there is concern as to the methodology used in determining the validity of the ALLL and its lack of consistency amongst the regulatory agencies.

Regulatory policy statements regarding ALLL typically offer guidance for the bank, as a means to help conform with the Generally Accepted Accounting Principles (GAAP) rules. The solution lies in fostering more consistent application of the policy through examiner education and coordination. There must be consistency in the set of components expected to be contained in the qualitative factors from institution to institution. The clear communication of these efforts is essential.

Call Reports

Community banks have always been simple and to the point. Their focus is on relationship-banking, aimed at serving their communities and helping them grow. The FBA recognizes the importance in tracking the financial health and progress of operations for all financial institutions, big and small. However, as time goes on the number of items to be reported on the Call Report, seems to be growing at alarming rate, regardless of size.

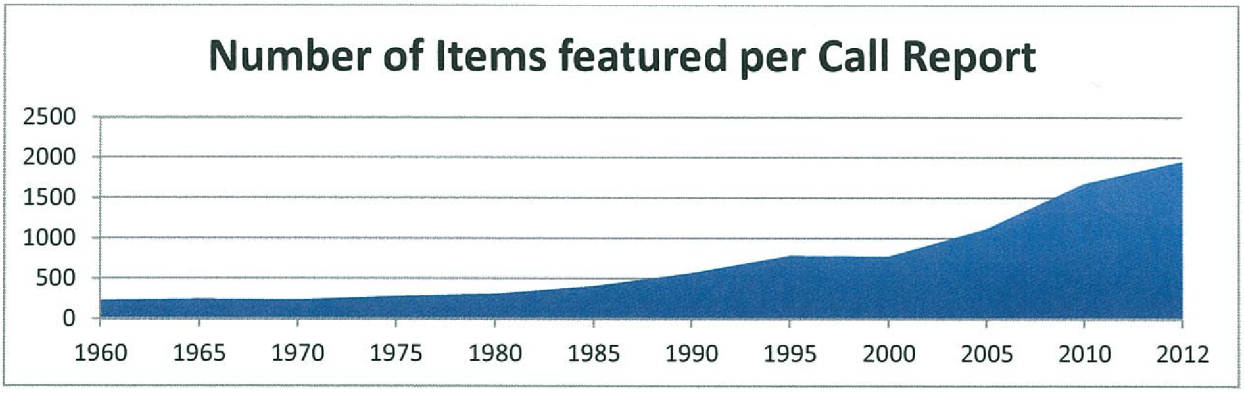


Figure 3: Call Report, Federal Financial Institutions Examination Council

Over the last 20 years the number of items to be reported has more than tripled as seen above. The levels at which the smallest community banks are required to report financial information rivals the specificity at which the largest megabanks must report. With nearly 60 business days between these quarterly reporting periods, community bank resources and time are depleting rapidly. This is not to mention the fact that regulated credit unions, which oftentimes engage in similar if not identical activities to community banks, are not required to produce the same level of detail.

> ***Example**: In the first quarter of 2014, the smallest community bank submitted an 80 page call report, as was required under the current framework, while the largest credit union in the country (> $58 billion in assets) submitted a report with only 28 pages.*

The FBA recommends that changing the reporting schedule to require short-form call reporting for the first and third quarters for those community banks considered "well capitalized," while continuing to submit full reports (fiscal year end and mid-fiscal/mid-year) would be welcomed relief. The short-form report would encompass the necessary basics: income statement, balance sheet and statement of changes in bank equity capital. To reform the schedule in such a way would provide a great deal of relief for community bankers while maintaining a level of reporting that would provide agencies with adequate information to detect any issues.

Modernizing the Banking Regulatory Framework

As our committee met, a common theme emerged pertaining to the fact that several regulations, while well intentioned and necessary at the time of enactment, are now severely outdated. Or, even worse, the problem which they sought to address no longer exists. Overall there seem to be several areas throughout the multitudes of banking regulation in need of fine tuning. Bringing certain regulations up to speed with common industry practices would certainly help alleviate some of today's extensive compliance burden. Below are a few examples of regulations where the FBA feels there is opportunity for modernization and reform, in order to better align regulation with current economic and societal norms.

- **Voluntary Spousal Guarantees:** The Equal Credit Opportunity Act (ECOA), designed in part to end discriminatory lending practices targeted at married women, prohibits a creditor from discriminating against any applicant for credit on the basis of marital status. Regulation B expanded the definition of applicant to include, among others, guarantors. While this regulation was established to protect the spouse, it has greatly impacted a bank's ability to apply safety and soundness rules to commercial credit decisions.

Currently, banks are repeatedly unable to collect on a company's bad debt because the borrower's assets have been moved into the name of an owner's spouse who was not allowed to be a guarantor on the loan. On January 7th, 2013, the US District Court for the Western District of Missouri stated that "FRB's interpretation of 'applicant' to include guarantors is an impermissible expansion of the statute (ECOA) that stretches liability beyond that which Congress intended and in a way that leads to illogical results."

In addition, if the spouse of an owner of a closely-held company guaranteed a loan in order to enhance the likelihood that the loan is repaid, the spousal guaranty may be deemed void and not enforceable. The courts' opinions are currently split on this issue and in some states (e.g. Missouri and Illinois) whether an ECOA affirmative defense applies to a spousal guaranty depends on whether the financial institution attempts to enforce the spousal guaranty in federal or state court.

In order to modernize the regulation and foster issuance of credit, the FBA suggests including an exception to ECOA for corporations, LLCs and partnerships. This would align the regulation with the original intent of Congress while alleviating the documentation burden and assisting banks in gaining a more secure security interest in the collateral.

- **The Truth in Savings Act (Reg DD):** 12 CFR 1030.5(b) (1) requires completely new account disclosures with the renewal notice for any Certificate of Deposit over 1 year. Such provision is antiquated, cumbersome and quite costly. This provision was especially applicable in the 60's and 70's when there was a significant difference between savings and commercial banks. Today, however, both tend to offer all products regardless of charter. Providing these notices to clients and making the changes to accounts can be very time consuming. Clients rarely understand the difference. In actuality any real difference is a nuance, given that most banks can now offer interest bearing checking accounts. The FBA recommends that the full disclosure be optional and require only a notice to call the bank on or after the renewal date to get the current APY or have any other questions answered, similar to the notification requirements for CD's with a term of at least 12 months or less.

- **The Definition of Savings Deposit (Reg D):** The Federal Reserve Board's (FRB) definition of "savings deposit" requires banks to monitor activity on savings and money market accounts for excess activity. Should a customer exceed the transaction limit 3 times in any 12 month period, the bank must send a series of warning letters. Sending these letters is a manual process that is costly and time consuming. To stay competitive, many banks are unable to charge for the labor involved in the practice, while others find ways to circumvent the rule, allowing high balance customers to use messengers to conduct in-person transactions, which are unlimited. The FBA recommends that the FRB look at requiring a specific fee for debit transactions on these types of accounts and provide a model for disclosure so that all banks may remain competitive.

- **Annual Privacy Notices:** Regulation P, which implements the consumer privacy provisions of the Gramm-Leach-Bliley Act (GLBA) currently requires financial institutions to provide annual disclosure of their privacy policies to their customers. To mail these notices every year, even if no change has occurred, is a costly and unnecessary burden, especially when most customers complain about being inundated and are confused as to why they are receiving them. While the FBA appreciates the CFPB's recent attempt to streamline these requirements, in actuality the proposed changes seem impractical and fail to reach the intended goal.

  Instead of using the proposed alternative delivery method, the FBA recommends that the annual privacy notice be eliminated where there is no sharing under the GLBA or Fair Credit Reporting Act (FCRA) that would require the institution to offer the customer an opt-out. Consumers are really only interested in making sure the personal data that is collected and shared is protected, and when the right exists to do so, being given an easy way to opt-out. The requirement to potentially provide a notice about the notice merely substitutes one burden for another.

- **Expedited Funds Availability Act and Reg CC:** These rules need to be reworked to help anticipate fraud associated with services, including mobile deposits and online banking. Fraudsters are constantly perfecting their games, making it more and more difficult to distinguish between authentic and counterfeit checks.

Current law requires that when a customer deposits a cashier's check into his/her own account in-person to an employee of the bank and no exception reason applies, the funds must be made available on the next day. If it is not given to an employee, but rather dropped in a night deposit box, for example, the funds must be available on the second business day after the day of deposit. While bankers strive for efficiency and quick service, these rules fail to anticipate the risk associated with such deposits, especially given the technological time we live in. To continue with the rule as it stands places too much of the deposit at risk, as banks literally have to make funds available before they have finalized the process. Such a burden is unfair and unsafe for both the institution and its customers.

- **Truth in Lending Act (Reg Z):** In regards to the provisions regulating rescission the tolerance threshold needs to be increased. Right now the $35 rescission tolerance impacts loans in foreclosure and extends the recession period an additional three years.

We greatly appreciate your review of these recommendations to streamline, modernize and reduce the regulatory burden currently faced by our traditional FDIC banks.

Adoption of these suggestions and others will maintain our strong regulatory scheme, while helping to reduce the costs and burdens that are unfairly being borne by traditional FDIC banks.

Reducing and streamlining these regulations will not only allow banks to get back to the business of lending, but will help to foster economic growth and, most importantly, help create jobs within their communities.

Sincerely,

John Tranter
FBA Chairman
EVP & Chief Banking Officer
CenterState Banks, Inc.

Raul Valdez- Fauli
FBA Regulatory Relief Committee Chairman
President & Chief Executive Officer
Professional Bank

Alex Sanchez
President & CEO
Florida Bankers Association

Kim Siomkos
VP Government Affairs
Florida Bankers Association

Appendix

I. *Fostering an Efficient Regulatory Environment*

DEFINITION and DISCLOSURE TIMING ATTACHMENT

REGULATION	APPLICATION DEFINED
RESPA	1. Six (6) pieces: borrower's name, borrower's monthly income, borrower's social security number to obtain a credit report, property address, estimate of value of the property, and loan amount.
RESPA	2. In writing or oral
TIL REG Z	3. Same definition as RESPA #1
ECOA REG B	4. All information the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested. Including, but not limited to, credit reports, additional information requested from the applicant, any approvals or reports by governmental agencies or other persons necessary to guarantee, insure, or provide security for the credit or collateral.
ECOA REG B	5. Shall take a written application.
HMDA	6. Per your company's policy
HMDA	7. An oral or written request for a home purchase loan, home improvement loan, or a refinancing.
FCRA REG V	8. When information relating to a credit report and/or score is used in connection with an application for a residential mortgage loan. LOs know that there exists a Fair Credit Reporting Disclosure form that must be given to the borrower whenever credit is run.
FACTA	9. When information relating to a credit score is used in connection with an application for a residential mortgage loan
Privacy REG P	10. Created whenever non-public personal information is received from a borrower for the purposes of applying for credit.

REGULATION	DISCLOSURES REQUIRED
RESPA	11. Good Faith Estimate (GFE), HUD Booklet for purchase loans, Servicing Disclosure within 3 business days of the receipt of the 6 pieces of information. (see #1 above)
RESPA	12. IF denied or withdrawn within 3 days Credit Denial Form within 3 business days of the receipt of the 6 pieces of information.
TIL REG Z	13. Truth-in-Lending (TIL) should be dated the same as the GFE
TIL REG Z	14. Must receive the initial GFE and initial (TIL) statement disclosing the initial Annual Percentage Rate (APR) **7 business days prior to closing**.
TIL REG Z	15. TIL delivered no later than 3 business days from the date on the TIL Disclosure, and required even if the loan is denied in the first 3 days if the TIL was prepared specific to the borrower.
TIL REG Z	16. Must receive the initial GFE and initial in-Lending (TIL) statement disclosing the initial Annual Percentage Rate (APR) **7 business days prior to closing**.
TIL REG Z	17. Right of Rescission Notice with a refinance of an owner occupied 1-4 unit, Adjustable Rate Mortgage (ARM) Disclosures at initial application, the Consumer Handbook on Adjustable Rate Mortgages (CHARM) Booklet, balloon disclosures, prepayment penalty disclosures
ECOA REG B	18. Equal Credit Opportunity Act (ECOA) Notice must be given to the borrower at the time of loan application.
ECOA REG B	19. Approval, Credit Denial, Termination or Change form must be provided within 30 days of loan application.
HMDA	20. Government monitoring section disclosure provided with the loan application.
FCRA REG V	21. Fair Credit Reporting Disclosure form given whenever credit is run.

FRCA REG V	22. Initial notice and opt-out
FACTA	23. Credit score disclosure at time credit is pulled
FACTA	24. Affiliated Sharing Opt-Out Notice
PRIVACY REG P	25. Initial Privacy Disclosure, but the servicing lender provides the Annual Privacy Disclosure and Nonaffiliated Sharing Opt-Out Notice.

II.

LENDING REGULATIONS – WHEN DOES WHAT RULE APPLY?? (*INITIAL APPLICATION/UNDERWRITING STATES*)

1-FIRST, Consider The Loan Purpose **2-NEXT Is The Borrower Consumer Or Non Consumer?** **3-THEN, When The Rule Applies:** ✓ **YELLOW** - Only if loan closed ✓ **BLUE** - If Not Declined/Wdrawn in 3 days ✓ **GREEN** - Always		Information Security/Privacy	CIP & OFAC	Fair Credit Reporting Act	Reg B–Fair Lending Act w/in 30 days of application.[12]	RESPA					Regulation Z								APPRAISAL RULES[1]	HMDA[4]	Flood[7]	Privacy Disclosure	SCRA	Reg U
						GFE & HUD Info Booklet	HUD 1 or 1A	Affiliated Bus. Arrangement	Transfer of Servicing[14]	Escrow[15] Mandatory/Analysis	CHARM[10] / HELOC Booklet & ARM/HELOC Program Discl @ Time of Appl.	Early TIL[11]	Wait 7 Bus. days to close after giving early TIL[9]	TIL	Right To Cancel	HOEPA	High Cost Mtg.[13]	Tangible Net Benefit Test						
Cons non RE	Consumer Purpose	Y	Y	Y	Y	No[1]	No	No	No	No	No	No	No	Y[2]	No	No		No	Y/No	NA	NA	Y	Y	NA
ALL Types	Non Consumer Purpose ➢	Y	Y	NA	Y	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	Y	Y[4]	Y	Y	Y	NA
Construction	Consumer Without Perm	Y	Y	Y	Y	No	No	No	No	No	No	No	No	Y	No	Y	No	Y	Y	No	Y	Y	Y	NA
	Consumer With Perm	Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y[3]	No	Y	Y[15]	Y	Y	Y	Y	Y	Y	NA
Purchase Money Mortgage		Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y[3]	No	Y	Y[15]	Y	Y	Y	Y	Y	Y	NA
Refi First Mortgage	Original Lender, no new funds	Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y	No	Y	Y[15]	Y	Y	Y	Y	Y	Y	NA
	Other-Consumer, Home secured	Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y	Y	Y	Y[15]	Y	Y	Y	Y	Y	Y	NA
Other 1st Mtg Closed End	Home Improvement	Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y	Y	Y	Y[15]	Y	Y	Y	Y	Y	Y	NA
	Other Consumer Purpose	Y	Y	Y	Y	Y	Y	Y	Y	Y[15]	CHARM	Y	Y	Y	Y	Y	Y[15]	Y	Y	No	Y	Y	Y	NA
Jr Mtg Closed End	Home Improvement	Y	Y	Y	Y	Y	Y	Y	Y	No	CHARM	Y	Y	Y	Y	Y	No	Y	Y	Y	Y	Y	Y	NA
	Other Consumer Purpose	Y	Y	Y	Y	Y	Y	Y	Y	No	CHARM	Y	Y	Y	Y	Y	No	Y	Y	No	Y	Y	Y	NA
1st (non Pchse) /Jr HELOC	Home Improvement	Y	Y	Y	Y	Y[5]	N	Y	Y	Y[15]	HELOC	Y[11]	NA	Y	Y	NA	Y[15]	Y	Y	Y	Y	Y	Y	NA
	Other Consumer Purpose	Y	Y	Y	Y	Y[5]	N	Y	Y	No	HELOC	Y[11]	NA	Y	Y	NA	No	Y	Y	No	Y	Y	Y	NA
Loan Modification - Consumer Purpose		Y	Y	Y	Y	NA	NA	NA	NA	NA	NA	NA	NA	NA	Y[8]	NA	NA	NA	???[1]	No	Y[7]	No	Y	NA
Purpose Loan Secured by Margin Stock		Y	Y	NA	Y	NA	NA	NA	NA	NA	NA	NA	NA	No[2]	NA	NA	NA	NA	NA	NA	NA	Y	Y	Y

1 GFE not needed unless bank requires appraisal on non-RE property collateral, (antiques, artwork, etc.) Appraisal rules apply if bank requires appraisal on non RE collateral. If loan mod extends maturity date, review appraisal. GFE required if 6 items rec'd by Bank: 1)Borrower Name 2)TIN 3)Property Address 4)Gross Mo. Inc. 5)Estimated Value of Property 6)Mortgage Amount Desired. Also issue new GFE in the event of a "changed circumstance"
2 Not required if loan amount exceeds $25,000 and not secured by real estate.
3 If the initial disclosures provided in the early TIL are accurate within stated tolerances, a second TIL at closing is not necessary.
4 HMDA reporting applies if property being financed or refinanced by a Non-Consumer Borrower is a **residential** property.
5 The Early HELOC program disclosure must be given at the time of application; also contains RESPA required discl. a separate GFE not required if program discl provided. The 3/7 day early TIL waiting periods don't apply to HELOC's
6 If the modification increases a HELOC, then the Right to Cancel will apply to the increased amount ONLY. If another type of loan or the modification is to a HELOC for another purpose, Right to Cancel does not apply.
7 If the modification is for a loan secured by RE obtain a new flood determination. Required when we Make, Increase, Renew or Extend a loan, ("MIRE"). Also obtain if lien is in "Abundance of Caution" Life of Loan covrg. doesn't matter
8 May require a new appraisal. Perform an Appraisal Useful Life Review
9 If new TIL given with revised APR beyond tolerance, Bank must wait an additional 3 Bank business days before closing the loan, (except in bona fide personal emergencies. Personal convenience issues not an "emergency".)
11 Early TIL must be given within 3 Bank business days after receipt of written application in ANY dwelling secured loan covered by Reg Z. If early TIL is mailed, cannot charge any fees for 3 days except fee to obtain a credit report, including lock in fee. Early TIL disclosures can be delivered electronically, IF in compliance with ESign Act requirements. 3 day early TIL disclosure delivery due date and 7 business day waiting period can run concurrently.
12 Decline notice required within 30 days of receipt of complete application for Non Consumer Purpose if borrower's Annual Gross Income is $1,000,000 or less. Verbal OK if Bank commercial loan app. used.
13 High Cost Mtg Disclosures: Warning notice, APR;, Amt. of regular pmt & if any balloon; Stmt. that rate & pmt. may increase; Amt of single maximum pmt based on highest rate; Amt. Borrowed. Restrictions on certain terms.
14 The transferor servicer shall deliver the Notice of Transfer to the borrower not less than 15 days before the effective date of the transfer of the servicing of the mortgage servicing loan
15 Initial escrow stmt required within 45 calendar days of settlement. Under Reg. Z §226.35(b)(3)(i) An escrow account is mandatory for a 1st-lien jumbo loan if loan's APR is 2.5 percentage points or more above the Avg Prime Offer rate.

Abbreviation Key		➢ Other Requirements & Regulations That Apply to Lending	
• **GFE** – Good Faith Estimate	• **TIL** – Truth in Lending Disclosure	• Community Reinvestment Act	• Fair Housing Act
• Info Book – Special Information Booklet from HUD	• **[10]CHARM** – Consumer Handbook on *Adjustable Rate Mortgages* (CHARM booklet not needed if fixed rate)	• Regulatory Limits on Max. LTV	• Insider Lending Limits
• **HUD 1 or 1A** – HUD settlement statement		• Environmental Hazard	• Bank's Loan Policy
• **STD** – Loan Servicing Transfer Disclosure	• **HELOC** – Home Equity Line of Credit	• SAFE Mortgage Lender Register	• Servicemembers Civil Relief Act
• **Early TIL** – Early Truth in Lending Disclosure	• **HMDA** – Home Mortgage Disclosure Act	• Unfair & Deceptive Practices	• E-Sign Act