August 29, 2008

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

Re: Regulation C; Docket No. R-1321

Dear Ms. Johnson:

The Independent Community Bankers of America (ICBA)[1] welcomes the opportunity to comment on the Federal Reserve's proposed amendments to Regulation C (Home Mortgage Disclosure) that would revise rules for reporting mortgage loan price information to conform the definition of "higher-priced" loans to that recently adopted for Regulation Z (Truth in Lending). The changes are intended to reduce regulatory burden by allowing mortgage lenders to use a single definition of a "higher-priced" loan, rather than different definitions for the purposes of the two regulations. The amendments are also intended to result in more useful HMDA data because the new definition of a "higher-priced" loan uses a survey-based estimate of market mortgage rates as the benchmark for reporting.

ICBA supports the Federal Reserve's proposal to use the same definition of "higher-priced" loans for both Regulation Z and Regulation C. We agree that it will provide more consistent data and hopefully it will also be more accurate. Some bankers have told ICBA that conforming the definitions will lessen their compliance burden over the long term, while others that do not use automated systems for collecting the data believe that the reporting burden will be the same. Clearly, over the short term there will be some additional cost of implementing a new system and training staff. Although many community bankers agree with the proposed implementation date of January 1, 2009,

[1] *The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing over 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

some have raised concerns as to whether venders will be able to modify their software in time and would prefer an implementation date of January 1, 2010.

The Federal Reserve plans to use Freddie Mac's weekly Primary Mortgage Market Survey as the benchmark index, rather than Treasury securities and plans to use it for both Regulations Z and C. The Federal Reserve believes that because this benchmark reflects real prime mortgage market rates, it is more relevant and presents fewer problems when movement in mortgage rates deviates from movement in Treasury rates. ICBA supported this change in the definition of "higher-priced" loans when amendments for Regulation Z were proposed and supports the use of this survey for the purposes of Regulation C also. The Freddie Mac weekly survey is the most comprehensive available, though lacking in data for some types of loans. An important benefit is that the survey tracks real mortgage rates and costs, making it much more relevant than using Treasury securities as benchmarks. We also commend the Federal Reserve for publishing all of the threshold rates on an easily accessible website, facilitating compliance.

Regulation C currently requires lenders to report the spread between the annual percentage rate (APR) on a loan and the yield on Treasury securities of comparable maturity if the spread meets or exceeds 3.0 percentage points for a first-lien loan and 5.0 percentage points for a subordinate-lien loan. Under the proposal, a lender would report the spread between the loan's APR and survey-based estimate of rates currently offered on prime mortgages of a comparable type if the spread meets or exceeds 1.5 percentage points for a first lien loan and 3.5 percentage points for a subordinate lien loan. The Federal Reserve also proposed a methodology of calculating rates that are not available through the Freddie Mac survey.

While most community banks have told ICBA that the proposed thresholds are appropriately focused on higher cost mortgages, ICBA remains concerned that the proposed margins may be inappropriate for some loans, such as some traditional community bank loan products and jumbo loans. Many community banks offer 3- and 5-year prime mortgages (not priced off Treasury securities) that they hold in portfolio and are contracted as balloon mortgages. It appears that, depending on the interest rate environment, some of these prime loans may be considered "higher-priced" loans. The same is true for other types of loans such as jumbo or conforming jumbo loans. We urge the Federal Reserve to closely monitor mortgage interest rates being offered by banks over the coming months before the rules become effective to see if too much of the prime sector of the market is being considered subprime due to the new definitions of "higher-cost" mortgages and whether the thresholds (base rate and/or spread) should be temporarily or permanently raised or other action taken to avoid classifying prime loans as "higher-priced."

Community banks continue to be conservative underwriters and have generally stayed away from "higher-priced" loans as they do not want to be associated with subprime lending. We have strong concerns should their loans be "tainted" as "higher-priced" and they face increased reporting burdens, they will simply stop making the loans or greatly restrict their availability. Community bankers have told us that they feel a need to keep their loan rates below the "higher-priced" thresholds, but to do so would result in unprofitable loans. These are most often community banks offering loans in smaller communities where mortgage volume potential is limited. Thus, it will greatly impact the residents of their communities if their local lender no longer offers residential mortgages or restricts their availability.

We appreciate the opportunity to comment. If you have any questions about our comments, please contact me by phone at 202-569-8111 or by email at ann.grochala@icba.org.

Sincerely,

/s/

Ann M. Grochala
Director, Lending and Accounting Policy