

May 2, 2011

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

**Subject:** Northwest Credit Union Association Comments Regarding Notice of Proposed Rulemaking, Regulation Z - Truth in Lending; Docket No. R-1406, RIN No. 7100-AD 65

Ms. Johnson:

The Northwest Credit Union Association represents the 193 credit unions across Oregon and Washington with 4.2 million members and \$46.3 billion in collective assets. We appreciate the chance to comment on this proposed rule and would like to address a few concerns around factors we believe could negatively impact credit unions.

#### **General Comments**

The Association understands that the Truth in Lending Act (TILA) was enacted to help consumers better understand credit terms and compare options as well as realize the true cost of the credit and has helped to grow financial literacy among consumers. We realize many of the proposed requirements in this rulemaking are mandated directly by the Dodd-Frank Act. While we agree that consumers should be savvy in their financial decisions, there are unintended consequences and factors inherent in this proposal which make offering loans requiring escrow accounts less desirable and in some cases impossible for small lenders.

Credit unions continue to feel the weight of additional requirements, documentation, and disclosures required by Dodd-Frank and other agencies.

#### **Five-year escrow period**

Extending the required period an escrow account be maintained from one year to five years is a significant change in established policy. Such a requirement, while well meaning, puts an increased burden on financial institutions and homeowners. It stands to reason that if a borrower has been making the required payments and is in good standing on their loan that extending the time required escrow to five years is overkill. Today borrowers have a bevy of tools at their disposal to help educate and manage their financial decisions; they don't need their lender managing their money.

Allowing responsible borrowers to end their escrow payments after a reasonable period of time saves the lender administrative time and costs and allows the borrower to take on their own responsibilities sooner.

### **Treatment of home equity loans**

Proposed changes would sweep home equity loans and lines of credit into the higher-priced mortgage loan regulations -- this does not serve what we believe to be the purpose of this rulemaking. Home equity loans and lines of credit are a significant product for some lenders. They are a competitive product which many lenders keep on their books, allowing them to keep their portfolio diverse against interest rate risk and market fluctuation. But many small lenders are not in the business of providing escrow accounts and do not have the back-of-house expertise and vendor relationships to make this process easy or cost-effective. Many will have to reexamine their ability to offer home equity lines of credit.

Also, consumers with a mortgage who want to take out a home equity line of credit would be discouraged from doing so by the proposed requirement that second liens 3.5% above the prime rate must establish an escrow account on that loan. Practically, this means that homeowners who have already established and pay escrow on their mortgage may be subject to two escrow payments.

Those who pay the tax and insurance costs on their mortgage will be required to set up an escrow account for their new home equity line -- this will discourage those who might be interested in taking out such a loan as this line of credit may cost more than they are willing to pay. Further, adding an escrow account for those who have most or all of their residence paid off -- when they've been paying their own taxes and insurance for years, even decades - seems counterproductive.

The Association would suggest that loans with a loan-to-value ratio of less than 20 percent be excluded from the escrow requirement. Homeowners who are clearly financially secure and able to take responsibility for their own home-related expenses should be able to take out a line of credit or home equity loan and still maintain their own escrow and insurance relationships.

### **Allowing for niche lending**

Credit unions that typically make niche-type loans such as those for mobile homes would be negatively impacted by this new escrow requirement. While many lenders only do a few (less than five or ten) of these loans per year the loans are generally considered to be higher risk and are thus considered higher-priced mortgage loans. Typically these institutions are not equipped to, or unable to absorb the cost of, establishing escrow accounts. Lenders are then faced with dropping the rate on the loan to take it out of the "higher-priced" category, which based on risk is unfeasible and unreasonable, or they are priced out of that market, leaving the business to larger institutions and reducing lender competition for such loans.

Another concern is around loans where there isn't an obvious way to escrow. Live-aboard boats, for instance, are difficult to manage as there is no clear direction on what to escrow. Should they escrow boat insurance? Slip rental? Property taxes and insurance are not necessarily required for all dwellings. There needs to be some common sense flexibility as to how loans are handled beyond what may seem to be a simple home or property escrow. This type of niche lending is difficult to manage under the proposed regulations and must be addressed so that lenders are not precluded from making such loans.

### **Expanding exemptions**

While we generally agree with the exemptions for escrow accounts secured by cooperative housing and insurance exemptions for condos and planned developments the Association would suggest the other exemptions should be expanded to require that two of the proposed criteria, not all three, be met for exemption. The proposal exempts from escrow requirements a lender “make most of its first-lien higher-priced mortgages in counties designated by the Board as ‘rural or underserved,’ together with its affiliates originates and services 100 or fewer first-lien mortgage loans, and together with its affiliates does not escrow for any mortgage loan it services.” Meeting two of these three factors better helps to allow small and niche lenders to stay in the market without being priced out by administrative fees or technical requirements.

#### **Implementation concerns**

Finally, the Association must once again call attention to the increasing regulatory burden on credit unions and the continued addition of more forms, disclosures, requirements, and paperwork required for products and services such as mortgages. Lenders are tasked with making many incremental changes and as more and more regulations come from Dodd-Frank it is difficult to stay on top of the changes. Many credit unions use form vendors to help manage the changes but even they require time to make updates. Additionally, as forms change, the cost of new documents and training is significant. Currently these provisions are to be effective July 21, 2011 but credit unions and most small lenders will need 6-12 months for compliance since so many changes have been and are currently being made.

We would request that the compliance period for this regulation be extended to one year after the rule is finalized to allow credit unions enough time to reasonably adjust to and meet continued changing expectations.

#### **Conclusion**

The Association appreciates the diligence of the Board in developing this proposed rulemaking. We believe it reaches beyond the intended goals and sweeps small and specialized lenders into requirements proposed for larger more broadly focused institutions. The changes we have suggested are a step in helping to ensure that credit unions are able to remain competitive in the lending market and maintain a diverse and inclusive balance sheet.

Again, thank you for the opportunity to comment on this proposed rulemaking, we would be happy to answer any questions you may have.

Respectfully yours,

Jaycee Winn  
Director of Regulatory Advocacy  
Northwest Credit Union Association