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VIA E-Mail: regs.comments@federalreserve.gov

May 2, 2011

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., N.W.,
Washington, D.C. 20551

Re: Regulation Z; Docket Number R-1406
Proposed Rulemaking regarding Escrow Accounts

Dear Ms. Johnson:

The Illinois Credit Union League represents over 400 state-chartered and federal credit unions in Illinois. We are pleased to respond on behalf of our member credit unions to the proposed amendments to Regulation Z and to Appendix H of Regulation Z. The proposed amendments would implement the escrow requirements for higher rate loans and the escrow disclosures required by new §129D (15 U.S.C. 1639d) of the Truth in Lending Act ("Act") added by the Dodd-Frank Act.

Section 129D extends the minimum mandatory escrow period for higher rate loans from one year to five years, adds exemptions, and requires new escrow disclosures.

We believe the proposed initial and subsequent disclosure requirements set forth in the proposed amendments to §226.19 and §226.21 of the Rule and the proposed model forms in Appendices H-24, H-25, and H-26 comply with the requirements of §129D(h) and §129D(j) of the Truth in Lending Act and will allow lenders to provide the disclosures in a concise and comprehensible format.

We disagree however with—

(a) the proposed determination of "rural areas" for purposes of exempting creditors operating in predominantly rural areas from the escrow requirements for higher priced mortgage loans, and

(b) the proposed interpretation of §129D(d) of the Act regarding the duration of mandatory escrow accounts.

Determination of Rural Areas

The determination of a rural area in proposed §226.45(b)(2)(iv) would exclude any county that is included in a metropolitan statistical area or a micropolitan statistical area, as defined by the Office of Management and Budget, or a county that is adjacent to a either a metropolitan or micropolitan statistical area. (An adjacent county that does not contain a town with more than 2,500 residents would generally be considered a rural area.)

We believe that Illinois' Senators and its Congressional delegation would be amazed at the almost completely agricultural counties in Illinois that would not be considered rural under the proposed exemption--especially the counties adjacent to a metropolitan or micropolitan statistical area. In addition, the Board should be aware that micropolitan statistical areas are often created because a specific town in a county requests the designation rather than due a uniform determination by OMB.

We suggest that a county adjacent to a micropolitan statistical area should be considered rural without exception and that the population limitation for counties adjacent to metropolitan statistical areas should be increased to a town of at least 10,000 residents in order for the adjacent county to not be considered a rural area.

Duration of Mandatory Escrow Account

Section 129D(d) of the Act states that an escrow account established for higher rate loans shall remain in existence for a minimum period of 5 years from the consummation of the loan, "unless and until—

(1) such borrower has sufficient equity in the dwelling securing the consumer transaction so as to no longer be required to maintain private mortgage insurance;
(2) such borrower is delinquent;
(3) such borrower otherwise has complied with the legal obligation, as established by rule; or
(4) the underlying mortgage establishing the account is terminated."

The Act's language is, admittedly, difficult to interpret since it addresses two positive situations--

- termination (repayment) of the mortgage, and
- attainment of sufficient equity so as to no longer be required to maintain private mortgage insurance;

and two negative situations--

- the borrower is delinquent, or
- the borrower has otherwise not complied with the legal obligation.

Proposed §226.45(b)(3), divides the four situations stated in §129D(d) of the Act into two parts and treats situation (4), termination of the mortgage, as a reason for early termination of the account, while treating situations (1) through (3) as a reason to mandate the extension of the escrow account beyond 5 years. (Proposed §226.4(b)(3)(ii) also replaces the "PMI" equity standard of the Act with the attainment of equity equal to 20% of the original value of the property.)

It is reasonable to refuse to prohibit cancellation of the mandatory escrow account after five years until the borrower corrects the delinquency or other default. It seems, however, that the "positive" situation, attainment of 20% equity, should be considered a reason to allow early termination of the mandatory escrow (as with the other positive situation--termination of the mortgage) The proposed rule would, instead, require the attainment of 20% equity as an additional requirement before the escrow account can be cancelled.

We believe a more reasonable interpretation of §129D(d) of the Act is that the lender should be able to allow the borrower to request termination of the mandatory escrow account prior to the end of the 5-year period if the equity is equal to 20% or more of the original value.

It is disappointing that the Supplementary Information accompanying the proposal does not provide any discussion of how FRB staff reached their conclusion or even any discussion of the FRB's replacement of the PMI-equity standard in the Act with the 20%-of-original-value standard in the proposed rule.

If there is any indication in the legislative history that Congress intended to require extension of the mandatory escrow period if the equity is less than 20% of the original value, that information should have been included in the Supplementary Information. Some might view the failure to address the issue as an attempt by the regulator to impose additional unnecessary requirements on lenders and borrowers that are not mandated by the Act.

We are pleased to be afforded the opportunity to comment on the proposed amendments to Regulation Z. Please contact me at 800-942-7124 ext.4262 if you have any questions concerning the above comments.

Very truly yours,

ILLINOIS CREDIT UNION LEAGUE

By: Cornelius J. O'Mahoney
Senior Compliance Analyst

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