

ADVOCACY SUBMITS COMMENTS ON THE FEDERAL RESERVE'S CLOSED END CREDIT PROPOSAL

On December 23, 2009, the Office of Advocacy of the U.S. Small Business Administration (Advocacy) submitted a comment letter to the Board of Governors of the Federal Reserve System (hereinafter, "the Board") on the Board's proposed rulemaking on *Regulation Z; Docket No. R-1366 Truth in Lending*. A copy of Advocacy's comments can be found at: www.sba.gov/advo/laws/comments.

- The proposed rule amends Regulation Z, which implements the Truth in Lending Act (TILA). The proposal would revise the rules for disclosure of closed-end credit secured by real property or a consumer's dwelling, except for rules regarding rescission and reverse mortgages. It would require transaction-specific disclosures to be provided to the consumer at least three business days before consummation. The proposed rule makes changes to the format, timing, and content of the disclosures for the four main types of closed-end credit information governed by Regulation Z: 1) disclosures at application; 2) disclosures within three days after application; 3) disclosures three days before consummation; and 4) disclosures after consummation. It also proposes additional protections related to limits on loan originator compensation.
- Although the Board prepared an initial regulatory flexibility analysis (IRFA), Advocacy expressed concerns that the IRFA may not comply with the requirements of the Regulatory Flexibility Act because it lacked adequate information about the economic impact of the proposal and full consideration of less burdensome alternatives.
- Small business representatives in the industry are concerned that the proposal may require small community banks to dramatically alter their business practices, raising costs for community banks.
- If community banks leave the market due to increased costs it would be more difficult for consumers, including small entities, to obtain a mortgage.
- Small businesses offering loan origination services will be negatively and disproportionately impacted by the proposal because the definition of loan originator in the proposal places restrictions on small businesses that are not placed on larger competitors.
- Advocacy encouraged the Board to consider less costly alternatives such as reconsidering the definitions of "finance charge" and "loan originator"; withdrawing the proposed prohibition on payments to loan originators that are based on the terms or condition of the loan and instead requiring creditors to

disclose the lowest interest rate; allowing loan originators to retain their ability to receive compensation as a percentage of the loan amount and not just a flat fee; allowing consumers to waive the three day waiting period; and delaying the implementation date.

- Advocacy also encouraged the Board to determine more accurately the full economic impact on small entities and to prepare and publish for public comment a revised IRFA.

For more information, visit Advocacy's webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.