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By 113

Robert E. Feldman, Exec. Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
comments@fdic.gov

Re: 12 CFR Chapter III

Dear Mr. Feldman:

ST. JOSEPH
CAPITAL
BANK

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St. Joseph Capital Bank (SJCB) strongly supports the proposed reduction in regulatory burden facing the banking industry. Many of the regulations have become so burdensome and complicated that they no longer serve their original purpose of informing and protecting the consumer. The consumers are more confused than ever by the volume of information issued in complex legal terms. Meanwhile, the costs to implement the regulations are overwhelming community banks. Even the regulators appear overwhelmed with the task of consistently enforcing the regulations, and are unable to review all of the information currently reported.

St. Joseph Capital Corporation is a one-bank holding company whose headquarters are located in Mishawaka, Indiana. With total assets of $313.7 million at the end of June 2004, we are now classified as a "large" bank for CRA examination purposes. However, our size is misleading, as we currently operate out of a single location, with less than 100 full time employees. Our primary service area is defined as a 12-mile radius around our office. We are a true community bank.

The ongoing monitoring burden has become overwhelming. For a community bank such as St. Joseph Capital Bank, we have one compliance officer, making it difficult to stay informed of all of the regulations and the ongoing revisions coming from local, state and federal regulators, along with agencies such as the SEC. New regulations continue to be issued at an alarming rate and existing regulations are constantly revised, requiring changes to existing forms, training manuals, policies and procedures. The issuing agencies provide very limited guidance on exactly "how" to comply with the regulations, so we have to pay outside consultants to help us interpret the changes. It would seem logical that if an agency is issuing a regulation, then that agency should be responsible for providing training to ensure the appropriate understanding and compliance with that regulation. Many violations are not deliberate abuse of policy, but rather the result of misinterpretations of gray areas in the regulations or a lack of training on minutiae buried within the regulation. The regulations also provide no opportunity to voluntarily correct an honest, inadvertent mistake.

The proposed regulatory relief would significantly reduce the compliance costs for institutions like SJCB by reducing unnecessary paperwork, improving productivity and reallocating resources to further serve our client base. The examination costs per employee are unduly burdensome on community banks such as SJCB in comparison to the same testing being done on a trillion dollar mega-bank.

St. Joseph Capital Bank joins with other financial institutions around the country to support the following regulatory relief measures. The proposed revisions to the

Community Reinvestment Act were addressed in a separate letter and are not covered here. We advocate the following changes:

Truth-In-Lending (Federal Reserve Regulation Z)

I. Repeal the three day right of rescission, or allow customers to waive the right to rescind. Very few customers have ever exercised their right to rescind. Most customers are frustrated they cannot have immediate access to their cash. They often accuse the bank of unfairly trying to earn more money by holding the money longer. Other options would be to provide exemptions in certain circumstances, such as refinancing at another institution when no new funds are advanced.

II. Simplify the definition of finance charge to allow consumers to understand the true APR. The existing definition is confusing to consumers and allows for inconsistencies among banks.

III. Simplify and coordinate the Truth-in-Lending and RESPA early disclosures. Consumers are confused by the volume and complexity of documents. Some consumers misunderstand the purpose of the early disclosures and mistakenly believe they have been approved for the loan and are signing closing documents. One client even sent us a check for the estimated closing costs shown on the Good Faith Estimate.

IV. The volume of disclosures makes it difficult to comply with the limited three-day disclosure requirement. If a customer is considering various financing options, we may have to provide several packets of information. The more paperwork involved, the more confusing it is to the customer, thereby eliminating the purpose of making it easier to shop and compare loan offers.

Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)

I. Streamline HMDA data collection and reporting, and eliminate requirements that are uninformative and cost prohibitive. Reporting guidelines are often difficult to interpret. The data reports are seldom requested by consumers, but are often misinterpreted or misused by advocacy groups or the media to suggest unfair lending.

II. Data collection for race/sex/ethnicity is skewed since many clients refuse to provide the information. With the increase in mail and internet applications, banks are unable to complete the form based on visual observation. Therefore, the data is no longer a true representation of the client base and fair lending practices and the bank is penalized because its client base values privacy.

III. Modify HMDA exemptions to consider the bank's asset size and number of reportable loans per year.

Privacy Notices

I. Eliminate the requirement for the annual privacy notice for banks that do not share information except under the permitted purposes, unless there has been a change in the policy.

Bank Secrecy Act (BSA), USA Patriot Act, Anti-Money Laundering Compliance

I. Increase the threshold for filing a Currency Transaction Report from $10,000 to a much higher amount. Increase the threshold for monetary instruments from $3,000 to a higher amount. Establish a de minimis threshold for reporting insider abuse, eliminating Suspicious Activity Reports for small dollar theft. Implement adjustments for inflation. Eliminate the requirement for annual recertification for exempt customers.

II. The current limits are overly restrictive given the current economic environment. It also appears that law enforcement only reviews a small fraction of the reports filed. This results in a highly inefficient and costly process for banks, with no apparent purpose or benefit. The penalties for non-compliance are severe, with no leeway for inadvertent errors.

III. The "Know Your Customer" guidelines appear overly invasive into a client's privacy. The bank is being asked to make judgment calls on whether certain behaviors represent suspicious activity. Intelligence software is becoming mandatory to track transaction histories and spending patterns, adding to the monitoring requirements and financial burdens on banks. The banks are being asked to perform terrorist monitoring activities that are well beyond the expertise of providing deposit and lending services to their community.

Real Estate Settlement Procedures (RESPA)

I. Eliminate the requirement for the Servicing Disclosure. It doesn't restrict a bank from selling a loan, and has no obvious benefit to the customer. The settlement statement includes any servicing fees, so the customer knows the loan will be sold. Our institution retains all mortgages in house, so it is a meaningless disclosure.

II. The Settlement Statement is too complicated for the bank to complete and the client to understand. Examiners have begun citing exceptions when the settlement statement does not exactly match the Good Faith Estimate (GFE), with no room for adjustments as new information is obtained. The bank often does not know exactly what inspections a client may order, or the client may have paid for certain items prior to closing that are unknown to the bank. It is unclear how far back in time a bank has to go to report an item as "Paid Outside of Closing" – one week, three months, a year? In one-step construction/perm mortgages, the provider or cost of a service may be unknown at the time of closing. Instructions are unclear how to report these estimates on the final settlement statement.

III. The timing of early disclosures is too short given the amount of detail required to be disclosed. This is especially difficult with regard to the Good Faith Estimate as follow-up calls need to be made to determine what non-bank related closing costs must be disclosed, such as buyer-requested inspections, realtor fees and title company fees. It brings up the question as to why banks must disclose fees that are outside of our control.

IV. The disclosure requirements for banks are unfairly restrictive when compared to nonbanks, such as mortgage brokers. If the goal of the regulation is to protect the consumer, that protection should apply to all mortgage providers. Our compliance costs force us to charge more than these other providers, putting us at a competitive disadvantage. This ultimately harms the consumer, who ends up paying higher fees or having fewer lenders to select from for mortgage services.

Money Market Deposit Accounts (Federal Reserve Regulation D)

I. Expand the number of permissible transfers from money market deposit accounts from 6 per month to a higher or unlimited number.

II. Eliminate restrictions on paying interest on certain deposit accounts, such as interest-bearing business NOW accounts.

Sweep Accounts

I. Amend the reporting requirements under the Government Securities Act so banks don't need to send a daily statement when money is swept from a deposit account into a government repurchase agreement.

St. Joseph Capital Bank also supports the review and potential revisions to call reports, flood insurance, Regulation O – Loans to Insiders, the Electronic Funds Transfer Act, FIRREA and the various other regulations not mentioned above. The volume of regulations even makes it difficult to sufficiently address them in a memo.

Thank you for the opportunity to comment. We applaud the agency's efforts. We urge the FDIC to act promptly and work in cooperation with the other regulatory agencies to achieve a comprehensive review of the current regulatory environment. We are confident that the industry can achieve a more balanced approach between consumer protections and regulatory burden, and also create a more level playing field among banks and our non-bank competitors. Please feel free to contact us if you require any additional information.

Sincerely,

John W. Rosenthal
Chairman, President
& Chief Executive Officer

Katharine M.J. Ryan
Vice President
Compliance Officer

cc: Indiana Senator Evan Bayh
Indiana Senator Richard Lugar
Indiana 2nd District Congressman Chris Chocola