

FEDERAL RESERVE BANK OF SAN FRANCISCO  
101 MARKET STREET, SAN FRANCISCO, CALIFORNIA 94105

April 9, 2002

**BANKING SUPERVISION AND REGULATION:  
REGULATION B COMPLIANCE AND  
REVISIONS TO OFFICIAL STAFF COMMENTARY  
OF REGULATION Z**

To State Member Banks, Bank  
Holding Companies, U.S. Branches  
and Agencies of Foreign Banks,  
and Others Concerned,  
in the Twelfth Federal Reserve District

**Compliance with Section 202.6(b)(6)(i) of Regulation B (CA 02-6)**

For lenders who consider credit history in evaluating credit requests, Section 202.6(b)(6)(i) of Regulation B requires a lender to consider the credit history, "when available," of any account of an applicant's spouse on which the applicant is or was an "authorized user."<sup>1</sup> Over the past several years, issues have arisen over how a lender can comply with this regulatory requirement, particularly for credit applications where a lender is prohibited from asking the marital status of an applicant. The purpose of this letter is to clarify how a lender can comply with Section 202.6(b)(6)(i) of Regulation B.

The key to complying with Section 202.6(b)(6)(i) is determining whether readily available information allows a lender to determine that an applicant is an authorized user on a spouse's account. The regulation's use of the terminology "when available" means that a lender is not required to investigate whether a spousal authorized user account exists. However, when such information is available, indicating that a spousal authorized user account exists, the lender must consider information about the account in the underwriting process.

An example of when information is available, which allows a lender to determine that a spousal authorized user account exists, would include when the applicant provides the information on his or her own accord. An additional example would be when an applicant's credit bureau report lists not only an account on which the applicant is designated as an authorized user but also lists other information, such as the name(s) the account is in, that makes it clearly evident that it is an account of the applicant's spouse.

In contrast, when a credit bureau report only lists an account for which the applicant is an authorized user, a lender is not required to investigate further in order to determine whether it involves a spouse. In addition, when a home purchase or refinancing is secured by real estate and an authorized user account exists on an applicant's credit bureau report, even though a lender is required by regulation to ask the applicant his or her marital status, the lender is not required to determine whether the reported authorized user account is that of a spouse. The fact that further investigation would be necessary to determine whether the account involved a spouse means that such information is not available in accordance with the regulation. Therefore, while such an investigation may be possible on certain real estate secured loans, it is not required.

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<sup>1</sup> Section 202.6(b)(6)(i) reads: "To the extent that a creditor considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness a credit shall consider (i) the credit history, when available, of accounts designated as accounts that the applicant and the applicant's spouse are permitted to use or for which both are contractually liable."

In conclusion, a lender cannot have a blanket policy of ignoring or refusing to consider authorized user accounts. To comply with Section 202.6(b)(6)(i) of Regulation B, a lender, who considers credit history in evaluating credit requests, must consider spousal authorized user accounts when information is available that allows the lender to determine, without further investigation, that the applicant is an authorized user on a spouse's account.

### **Revisions to the Official Staff Commentary of Regulation Z (R-1118)**

The Federal Reserve Board has issued revisions, which are effective immediately, to its Regulation Z (Truth in Lending) official staff commentary, which applies and interprets the requirements of the regulation.

The commentary revisions clarify how creditors that place Truth in Lending Act disclosures on the same document with the credit contract may satisfy the requirement for providing the disclosures, in a form the consumer may keep, before consummation. In addition, the revisions provide guidance on disclosing costs for certain credit insurance policies and on the definition of "business day" for purposes of the right to rescind certain home-secured loans.

The Board is also publishing technical changes to the regulation and commentary.

### **Additional Information**

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's Internet site, at <http://www.frbsf.org/banking/letters>. Paper copies of the Board's notice (**Docket R-1118**) are available from our Corporate Services Department. To request copies to be sent by mail, please call (415) 974-2060.

For additional information about CA 02-6 and Docket R-1118, please contact our Banking Supervision and Regulation Department at (415) 974-3329.

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