Independent Bankers Association℠ of New York State, Inc.

Community Bankers. Serving the Community, Serving You!

May 29, 2013

Hon. Benjamin M. Lawsky
Superintendent
New York State Department of Financial Services

Dear Superintendent Lawsky:

On behalf of the Independent Bankers Association of New York State (IBANYS), which exclusively represents community banks throughout New York, I am writing to respectfully request the Department to reconsider Emergency Adoption of Superintendent's Regulation 419, particularly 419.12, "Quarterly Reporting Requirements."

From a community bank perspective, we believe the Ruling is overly burdensome. It will require that employees who are already weighed down with regulatory compliance matters must also compile extensive amounts of data. For many smaller institutions, that process could well take weeks to complete, if indeed all the data is even available. This new report does not reconcile to call report or HMDA report data, nor does it correspond to any Federal Regulations or reporting requirements.

It appears the intent is to decrease the number of foreclosures in New York. Yet, the delinquency rates at New York community banks, and the actual number of foreclosures in which they are involved annually, are extremely minimal. Mortgage foreclosures are simply not a problem with most community banks in the state. Moreover, the DFS tends to examine community banks on an average of at least once every two to two-and-a-half years, generally opposite of Federal regulators.

We also have questions as to how useful this information will prove. The Ruling only impacts State Chartered Banks. Yet, a significant percentage of the mortgages made or serviced in New York involve National Banks – which have absolutely no reporting responsibilities under this Ruling. Could this not prove a contributing factor when banks are considering whether to remain under, or convert to, the state charter?

We have additional concerns as well. For example, the 'Job Impact Statement' of the Regulation implies that 419 should not have a significant adverse effect on activities within the mortgage loan servicing industry. However, community banks do not have the level of sophisticated systems and resources referred to in the Statement.

Moreover, the Ruling is also unclear in some of its requirements. For example, Part 418 seems directed to the secondary market; are banks therefor only required to report on loans sold to the secondary market that they service, or must they also report on loans that they hold within their own portfolios?

We are concerned that the Ruling provides insufficient time for comments before requiring compliance. Indeed, the comment period appears open until June 25, 2013 – but banks must file year-end 2012 and first quarter 2013 data by May 31 to avoid penalties. Some community banks have also reported they have encountered technical difficulties involving connectivity issues with the portal used to upload information.

In closing, we respectfully request that DFS reconsider this Regulation's negative impact on community banks, which contribute a disproportionately large amount of the small business, agriculture and residential and consumer lending within their communities of New York, and provide an exemption to exclude community banks from this burdensome reporting process?

Thank you for your consideration.

Frank J. Capaldo
President and Chief Executive Officer
Independent Bankers Association of New York State