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October 11, 2007

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

Re: Docket No. R-1286, Regulation Z

Dear Ms. Johnson:

This response to the proposal (Docket No. R-1286) issued by the Board of Governors of the Federal Reserve System (the "Board") to amend Regulation Z implementing the Truth in Lending Act ("TILA") is submitted on behalf of the group of financial service companies for which FMR LLC is the parent company (collectively, "Fidelity"). Fidelity companies provide investment management, recordkeeping and trustee and custodial services to thousands of employer-sponsored retirement plans covering millions of participants, which have been established under various provisions of the Internal Revenue Code (the "Code") including §§ 401(a), 403(b) and 457(b).

Fidelity supports the Board's proposal to exempt loans taken against employer-sponsored retirement plans from TILA coverage through the promulgation of the new § 226.3(g) of Regulation Z. As proposed, § 226.3(g) would apply to loans taken against only qualified 401(a) retirement plans and 403(b) tax-sheltered annuities. Fidelity respectfully requests that the Board (1) expand the scope of the exemption under § 226.3(g) to include loans taken against eligible governmental deferred compensation plans under Code § 457(b) and (2) provide additional guidance regarding disclosure requirements.

An eligible deferred compensation plan may be established and maintained under Code § 457(b) by a state, a political subdivision of a state, an agency or instrumentality of a state, or a political subdivision of a state ("governmental 457(b) plan").[1] Governmental 457(b) plans are defined contribution, individual account retirement plans which may permit participant loans,[2] subject to the requirements and restrictions of Code § 72(p)[3] to avoid taxation as distributions from the plan (which are also applicable to qualified 401(a) plans and 403(b) plans). Loans from governmental 457(b) plans would therefore satisfy § 226.3(g)'s requirement that "the extension of credit is comprised of fully vested funds

[1] Certain tax-exempt employers may also establish and maintain retirement plans under Code § 457(b). However, these 457(b) plans are typically intended to provide deferred compensation for a select group of management and highly compensated employees and do not permit participant loans.

[2] A loan from a governmental 457(b) plan will be treated as a violation of Code § 457(b) and a direct or indirect distribution, unless the loan has a fixed repayment schedule, bears a reasonable rate of interest, and requires repayment safeguards to which a prudent lender would adhere, among other facts and circumstances. 26 C.F.R. §1.457-6(f)(2).

[3] The amount of any loan from a governmental 457(b) plan is taxable as a distribution to the participant, except to the extent a loan satisfies Code § 72(p)(2) (relating to loans that do not exceed a certain amount and that are repayable in accordance with certain terms) and 29 C.F.R. § 1.72(p)-1.

Fidelity INVESTMENTS

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from such participant's account and is made in compliance with the Internal Revenue Code (26 U.S.C. 1 *et seq.*)."

The preamble to the proposed amendment of Regulation Z states that the Board believes that this exemption is appropriate because plan administration fees must be disclosed under certain Department of Labor ("DOL") regulations,[4] among other reasons.[5] Fidelity respectfully brings to the Board's attention the fact that governmental 403(b) plans and governmental 457(b) plans[6] and certain other 403(b) programs[7] are not subject to the Employee Retirement Income Security Act ("ERISA"), and the referenced DOL regulations are therefore not applicable. Anticipating questions from clients and their legal counsel regarding Fidelity's understanding of the scope of the exemption under § 226.3(g) and the reference to the DOL regulations, Fidelity respectfully requests that the Board clarify whether the exemptive relief under § 226.3(g) will apply to loans taken from retirement plans and programs which are not subject to ERISA, provided that loan-related plan administration fees are disclosed to participants as if the plan or program were subject to ERISA.[8]

Accordingly, Fidelity respectfully requests that the Board revise the language of § 226.3(g) to extend its exemptive relief to loans taken against eligible governmental 457(b) plans and to clarify that the DOL regulations are referenced only as a general standard for plans which are not subject to ERISA.

Thank you for the opportunity to present Fidelity's views on the Board's proposed changes to Regulation Z. If you have any questions or would like additional information, please let me know.

Sincerely yours,

Weiyen M. Jonas
Vice President and Associate General Counsel

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[4] Stating that "plan administration fees must be disclosed under Department of Labor regulations," the preamble references 29 C.F.R. § 2520.102-3(1), which requires in relevant part that "Plans also shall include a summary of any provisions that may result in the imposition of a fee or charge on a participant or beneficiary, or on an individual account thereof, the payment of which is a condition to the receipt of benefits under the plan."

[5] Truth in Lending, Proposed Rule, Federal Register 72, 32963 (June 14, 2007) (to be codified at 12 C.F.R. pt.226).

[6] 29 U.S.C. §§ 4(b)(1) and 4(b)(2).

[7] The DOL's safe harbor regulation at 29 C.F.R. § 2510.3-2(f) exempts certain 403(b) programs from the definition of a plan that is established or maintained by an employer under ERISA § 3(2). Such programs are therefore not subject to Title 1 of ERISA, including 29 C.F.R. § 2520.102-3(1).

[8] Although proposed § 226.3(g) does not specifically require certain participant disclosures in order to meet the requirements of the exemption, Fidelity's general recordkeeping practice is to use the same disclosure format for all retirement plan loans (reflecting the plan's provisions), whether the loan is from a qualified 401(a) plan, a 403(b) plan, or a governmental 457(b) plan, and whether or not the plan is subject to ERISA.