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April 5, 2008

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

Subject: **Comments regarding the Federal Reserve Board's proposed rule amending Regulation Z.**

As a professional, independent Colorado-based mortgage broker, given the current market conditions I barely find adequate time to address all of the business issues my small company faces just keeping up with the changing lender scene and product criteria and availability.

In spite of that, I find it imperative to comment on the 65 page, 75,000-word proposed rules changing the already voluminous Regulation Z. I feel compelled to comment because while I join my colleagues, my state and my national association in applauding the Board's expressed goals, I must take serious exception with the proposed manner to achieve them and am very concerned that if implemented as written the fundamental damage done to a functioning distribution system may be irreparable.

It is clear that the incidence of foreclosure has risen dramatically over the past three years. It further appears supportable that more liberal credit practices have enabled significantly improved access to residential real estate based credit to those who previously may not have qualified.

What is absolutely unclear and unsupported anywhere in the proposed rule or, for that matter, in any substantive recent studies or in the national debate, is any empirical evidence that the suggested "remedies" are actually focused on the (or a) cause.

It goes without saying that we all want *"to protect consumers in the mortgage market from unfair, abusive or deceptive lending and servicing practices. . ."*. What is questionable is whether the proposed changes will even do that, let alone do that *"while preserving responsible lending and homeownership."*

The reason I have taken time out of a schedule packed with trying to find ways to avoid becoming one of the statistics myself is because it is my heartfelt belief that the proposed changes are a case of "Ready-Fire-Aim". As one of over more than 300,000 professionals in my industry and as one of over 7,000 in Colorado, I request that the Board seriously consider slowing down the pace. Instead of introducing 65 pages of actions that have no foundation on which to believe they will be remedial, direct your efforts to coordinating an independent study of the true causes of the issues we face. Then, after an open-minded, independent study that has the charter and expectation to look at all components of the home financing system to determine the interrelated drivers of the problem, whether laws, regulations, complexity, lenders, mortgage brokers, real-estate agents, title companies, appraisers or even consumers themselves; draw conclusions and recommend changes based on data, not anecdote!

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In the meantime, I do want to highlight some of the problematic portions of the existing proposal at least as I see them:

1. At the risk of redundancy, I will start with my earlier observation – the proposed changes are based on unfounded, anecdotal input and present no logical expectation that the goals of the proposal, while laudable, will be supported if the changes are implemented.

2. While the proposal ostensibly is addressed at the Home Owner Equity Protection Act the Board has expanded its proposed changes in multiple areas to include what is referred to as the "prime" market. This is an example of ignoring cause and effect and simply imposing rules where there is clearly no indication those rules are necessary, let alone that they will be effective.

3. Prohibiting lenders deciding on their own how to use the projected revenue from the interest generated by a loan not only imposes inappropriate limitations on how business manages itself, but isolates a single component of the delivery system. The way the Board and others address the idea of "yield spread premium" indicates the level of misunderstanding held by many people, including some in my industry. "Yield Spread Premium" is an artificially created label assigned to the funds a lender uses to pay a third party for services rendered. It is not a commission. If there were no third party, the lender would incur increased fixed costs instead of being able to manage the services as a variable expense. It is incredible that the Board and many others believe that this artificially exposed sub-set of revenue is so meaningful to consumers for "comparison shopping" that "it" must be disclosed, yet lenders who pay for the same services internally do not have to disclose because the disclosure would be "too complicated". How does that protect the consumer? And, how does the Board respond to its data that indicates consumers make poor decisions more often when YSP is disclosed? This concept of YSP has been flawed since its inception. There is no reason to perpetuate the confusion caused by the disclosure. So, take this opportunity to correct a mistaken, misapplied disclosure and make the change YSP's removal, not continuation. The disclosure actually harms two distinct groups: consumers and mortgage brokers. And, as proposed, the singling out one group to disclose reduces, rather than supports, the very transparency being demanded on the national scene.

4. When consumers are faced with conditions that jeopardize their ability to continuing paying their contractual obligation they often declare ignorance as the cause. This claimed ignorance exists in an environment that already has dozens of disclosures required by statute and regulation at both the national and state level. There are even disclosures generated from business practices and I suspect caused by the lenders' and brokers' sense of the need to "CYA". In my experience, it is fair to say that the reams of disclosures have a numbing as opposed to clarifying effect. The problem of confusion will be increased, not lessened by introducing the requirement that disclosures may have to be made before the mortgage broker can have a complete idea of what the costs or program may be. Again, there is disparity between disclosures and the consumers' ability to better understand the transaction they are entering. I implore the Board to slow down, commission a study and don't implement change for the sake of "doing something". There has been quite enough of that in the past.

There are a variety of other issues I have, but I simply do not have the time independently to spend reciting them. I encourage the Board to pay close attention to the comments offered by my state association, the Colorado Association of Mortgage Brokers (CAMB) and by my national association, NAMB. And, while I may even disagree with some of the details of their comments they do generally represent my positions and I believe the positions of many of my small business colleagues.

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In the final analysis, I personally and professionally join everyone who believes that there needs to be a better way to insure consumers completely understand the implications of their single largest financial transaction. However, achieving the better way can only come from understanding the roots issues, accepting those elements that we must because of our national desire to achieve the "Dream" and by creating fact-based solutions for those areas that need improvement.

In any event, whatever changes survive the comment period; I ask the Board to assure that the application of the rule is universally applied to all originators, regardless of the legal entity for whom they originate.

Imposing 65 pages of rules based on anecdote is not the way to achieve our goals.

I thank the Board of Governors for its obvious passion with respect to the subject of consumer protection in my industry and appreciate your willingness to consider my comments.

Sincerely,

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