



*Our service says it all!"*

18 Computer Drive East | Albany, NY 12205  
(518) 458-2195 | (800) 468-5500 | Fax (518) 458-2261  
[www.capcomfcu.org](http://www.capcomfcu.org)

July 21, 2011

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

RE: Docket No. R-1417 and RIN No. 7100-AD75  
Mortgage Lending and Ability-to-Repay Rule

Dear Secretary Johnson;

Thank you for providing us with this opportunity to comment on the proposed *Mortgage Lending and Ability-to-Repay Rule*.

While we support the intent of the proposal and applaud the Federal Reserve Board for promoting a Rule that will ameliorate mortgage lending approval standards, we are opposed to the proposed definition of "points and fees". We are of the opinion that some of the inclusions in the definition are unnecessary and will have "unintended consequences" on lenders, such as Capital Communications FCU, who played no part in the mortgage lending debacle leading to the deluge of consumer-protection efforts yet these same lenders are being negatively impacted by the regulations.

**Real Estate Related Fees Paid to an Affiliate:**

In particular, we are adverse to the requirement that real estate fees paid to an affiliate of the creditor be included in the total points and fees of the related loan. Particularly, in regard to our credit union, we have a mortgage CUSO and a title services CUSO. Regardless of whether the title insurance referral is being made to our title insurance CUSO or another title insurance agency, the fees paid for title insurance are regulated.

Due to that fact, the potential borrower would be paying virtually the same amount whether he obtains title insurance from the affiliated agency or another unrelated agency, it seems unnecessary and unmerited to require that the fee for obtaining this service from an affiliate be included in the calculation of real-estate related fees.

As is already required by RESPA, we can certainly understand the requirement to provide a potential borrower with an "affiliated services" notice (and this is something we already do) however, requiring that the fee be included in "total points and fees" would place an otherwise legitimate and above-board mortgage lender at a disadvantage; one which might even cause a qualified mortgage to become an unqualified mortgage.

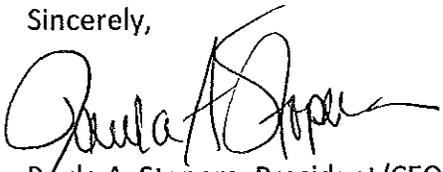
We are certain that this is not the intention of the requirement however, the unintended consequence of the requirement may have a potentially devastating impact on lenders such as Capital Communications FCU and we thereby respectfully request that it be reconsidered.

**Loan Officer Compensation:**

We are in agreement with the provision excluding an employee's base salary from the calculation of "points and fees". We make this comment to ensure that this exclusion is not omitted from the final rule as including a salary in the calculation could have a detrimental impact on lenders.

In conclusion, we would like to thank you for providing us with this opportunity to provide our comments on the proposed regulation regarding the Ability-to-Repay proposal and we stand ready to further discuss the comments stated within this letter if additional information is necessary. I can be reached by telephone at (518) 458-2195 or (800) 468-5500 (ext. 3204) or by email at [pstopera@capcomfcu.org](mailto:pstopera@capcomfcu.org).

Sincerely,

  
Paula A. Stopera, President/CEO  
Capital Communications FCU