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Proposal: 1417 (RIN 7100-AD75) Reg Z - Mortgage Repayment Standards  
Subject: Reg. Z

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Comments:

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Comments:

My comments are in response to the Board's request for public comment regarding Regulation Z in the proposed Ability-to-Repay rule. I would like to offer recommendations in the following areas of the proposed rule: (1) the 3% cap on points and fees; (2) the calculation of points and fees; (3) the small loan exemption on the points and fees cap; and (4) the safe harbor. I am supportive of the Board's efforts to implement the Ability-to-Repay rules directed by the Dodd-Frank Wall Street Reform and Consumer Protection Act. However, I have several recommendations to improve the rule that will minimize unintended consequences while still protecting consumers and adhering to the intent of Congress. 3% Cap on Point and Fees Section 1412(b)(2)(A)(vii) of the Dodd-Frank Act prescribed a 3% cap on points and fees to be part of the definition of a Qualified Mortgage (QM). However, Section 1412(b)(3)(B)(i) states that, "The Board may prescribe regulations that revise, add to, or subtract from the criteria that define qualified mortgage upon a finding that such regulations are necessary or properly ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section." The Board's proposed QM includes the 3% cap on points and fees. I strongly believe that a cap on points and fees is not a proper test to determine a borrower's ability-to-repay and should be removed from the definition of the QM. I suggest instead that the QM Alternative<sup>1</sup> at minimum include the debt-to-income (DTI) ratio and credit history standards from the General Ability-to-Repay Standard (GARS). A borrower's DTI ratio and credit history are substantially better standards to assess a borrower's ability-to-repay. Additionally, the DTI ratio takes into account points and fees when financed into the loan. Calculation of Points and Fees The proposed method of calculating points and fees for the QM does not treat mortgage brokers and creditors/banks equally. A mortgage broker must include both the broker and loan officer's compensation in connection with the loan. However, a bank only needs to include the cost of the internal loan officer's compensation in connection with the loan. The bank does not include its internal compensation on the loan. This is a significant disadvantage for mortgage brokerage firms competing with retail banks. I ask the Board to amend the points and fees calculation to ensure that mortgage brokers and banks are treated equally under the law. I suggest the Board amend the rule by removing a broker's compensation from the point and fees calculation. Another option would be to increase the 3%

cap on loans originated through a broker to 5%. If this change is not made, both brokers and consumers will be harmed. Small Loan Exemption Section 1412(b)(2)(D) of the Dodd-Frank Act directs the Board to provide exemptions to the 3% cap on smaller loans to reduce the potential impact on credit availability. The proposed rule provides two options that both increase the 3% cap on a sliding scale beginning at \$75,000. I recommend the Board increase the small loan exemption to \$175,000. The attached "Points and Fees Illustration" shows that the \$75,000 threshold is too low and will drive all borrowers' under \$175,000 to retail banks, ultimately limiting consumer options and forcing them into higher rate loans. As shown in the "Points and Fees Illustration," loans below \$175,000 using the current calculation of points and fees will exceed the 3% cap, while retail banks never exceed the cap above \$75,000 and could go even lower if they were to roll the fees into the rate which a broker is unable to do. Safe Harbor I am concerned that the Board's proposed rule includes a legal safe harbor from an ability to repay challenge for loans that meet the QM Alternative 1, while not offering (at a minimum) a comparable safe harbor for loans that meet the GARS standard. When comparing the GARS and QM, it is clear that the comprehensive underwriting criteria adopted by GARS is superior in determining ability to repay, while the QM has little to do with such, instead sacrificing underwriting standards for plain vanilla products and fee caps. Under the current structure of the proposed GARS and QM Alternative 1, I am concerned that lenders will drive consumers to the QM to get the safe harbor. I am further concerned that over time, the lack of minimum underwriting standards in the QM could lead to safe harbor loans being made that a simple test comparing total income to total debts would have proven mathematically unsustainable. A borrower's predictable failure on QM Alternative 1 loans will not be averted simply because the loan lacks certain features or was obtained below a randomly selected one-time fee cap. I believe it irrational and indefensible to protect lenders of such loans while not offering equal or greater protection to lenders who choose to soundly underwrite loans under GARS. Thank you for your consideration of our views on the Board's proposed rule on the Ability-to-Repay. I look forward to working with the Board and CFBP to help implement this rule with the best possible outcome for consumers and the housing finance system.