Office of the Illinois Attorney General
Telephone Conference with Federal Reserve Staff on April 10, 2008
Regulation Z (Truth in Lending)
Docket Number R-1305

On April 10, 2008, Tom James, Susan Ellis, and Steve Roan, staff of the Illinois Attorney General ("AG staff") spoke by telephone with staff of the Board's Division of Consumer and Community Affairs to provide comments on the recently proposed amendments to Regulation Z to protect consumers in the mortgage market from unfair, abusive, or deceptive practices ("the proposal"). AG staff expressed concerns that:

- The proposal to require brokers to disclose a conflict of interest is contrary to recently enacted Illinois law requiring brokers to serve borrowers' best interests. AG staff noted that the Board's proposed safe harbor for state laws may not be available because Illinois law does not currently require disclosure of the broker's duty.

- The Board's safe harbor for broker compensation that is not tied to interest rate may allow lenders to pay brokers more for loans with prepayment penalties.

- Individual consumers will not be able to seek redress under the proposal to prohibit a lender from engaging in a pattern or practice of lending based on the collateral without regard to the borrower's ability to repay the loan. The proposal would, however, help state officials subpoena information for potential unfair or deceptive lending cases.

- Lenders who meet the safe harbor from the proposed income and asset verification rule can impose unwarranted premiums on borrowers who could have documented their income.

- The proposed APR trigger for "higher-priced loans" will not prevent abusive practices, particularly in nontraditional mortgage loans. AG staff urged the Board to include in the triggers for "higher priced loans" the current points and fees trigger for HOEPA loans, modified to include prepayment penalties and yield spread premiums.

- Home equity lines of credit (HELOCs) are exempt from the proposal's protections. AG staff stated that some lenders use HELOCs to finance excessive points and fees that would otherwise trigger HOEPA. Lenders may also use HELOCs to "max out" the borrower's equity so that other lenders will not approach the borrower for refinancing.

AG staff generally supported the proposal on servicing and on advertising. They suggested that advertisements for nontraditional mortgage products should include information about negative amortization.