April 8, 2008

DELIVERED BY ELECTRONIC MAIL

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

RE: Docket No. R-1305; Truth in Lending; 73 F.R. 1672 (January 9, 2008)

Ladies and Gentlemen:

Wachovia Corporation and its subsidiaries, including Wachovia Bank N.A., Wachovia Mortgage FSB, (collectively, "Wachovia") appreciates the opportunity to comment to the Board of Governors of the Federal Reserve System ("Board") on the notice of proposed rulemaking to amend Regulation Z, which implements the Truth in Lending Act.

We applaud the Board's commitment to curbing abusive lending practices in the home mortgage market. We support a strong regulatory regime that requires lenders to provide full and fair disclosure to customers and to prudently manage their business. That includes avoiding lending practices that can be predatory or abusive; avoiding dilution of underwriting standards just to get volume; actively managing, monitoring and controlling risks of default; and maintaining strong compliance and risk management functions.

We believe that such a regulatory regime can be implemented without diminishing the supply of credit to qualified consumers with less than perfect credit. However, we are concerned that certain aspects of the proposed regulations – principally, the definition of "higher-priced" mortgage loans, intended as a proxy for subprime loans – err on the side of unnecessarily restricting credit to creditworthy consumers. We urge the Board to work with us, our industry peers and trade associations to find an appropriate balance that protects consumers and maintains the flow of affordable mortgage funding to creditworthy borrowers. We also urge the Board to provide sufficient time – at least 12 to 18 months from publication of the final regulations – to implement the requirements of the regulations.

Wachovia has participated in and generally supports the comment letters being submitted by the American Bankers Association, the Housing Policy Council of the Financial Services Roundtable, the Consumer Bankers Association, and the Mortgage Bankers Association. In addition, in this letter we address three specific issues that we view as the most significant of those raised by the proposed amendments: the definition of higher-priced mortgage loans, the appropriate spread over index and the treatment of loans held for investment as contrasted with loans held for sale. We also address certain selected issues that arise with respect to the proposed rules relating to higher-priced mortgage loans and with respect to the proposed rules relating to mortgage loans generally.

Definition of Higher-Priced Mortgage Loans

Proposed Use of Treasury Securities

Wachovia is concerned about the proposed definition of higher-priced loans, defined as a mortgage loan, secured by the consumer's principal residence, with an APR greater than three percentage points over comparable Treasury securities for a first lien, or five percentage points over Treasury securities for subordinate liens. We believe Treasury securities are a distorted measure of mortgage rates, and will unintentionally and unnecessarily subject a significant number of prime loans to the additional and costly burdens, including significantly increased liability, established by the proposed regulation for higher-priced loans.

First, Treasury securities may not correlate well to actual mortgage rates because mortgage rates are determined by broader market forces. As noted in economic charts and data provided by various financial services trade associations, the variation between Treasury securities and mortgage rates becomes even more pronounced during periods, such as the one recently, when the "yield curve" becomes flat or inverted, and there is significant volatility in that variation over relatively brief periods of time.

Second, the potential variation in rates between the application for and closing of a mortgage loan will have the unintended consequence of denying credit to some prime borrowers just below the threshold. To avoid the legal and reputational risk of making higher-priced loans, lenders will include an interest rate buffer in the loan pricing to provide leeway against sharp interest rate increases.

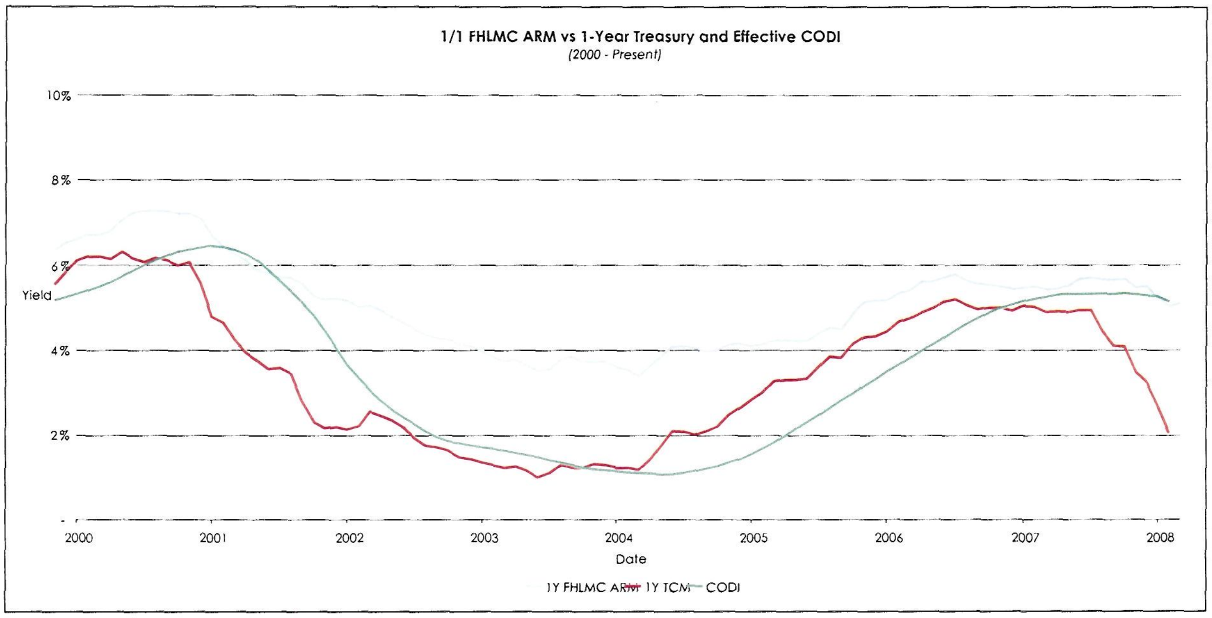
Proposed Use of Matching Treasuries

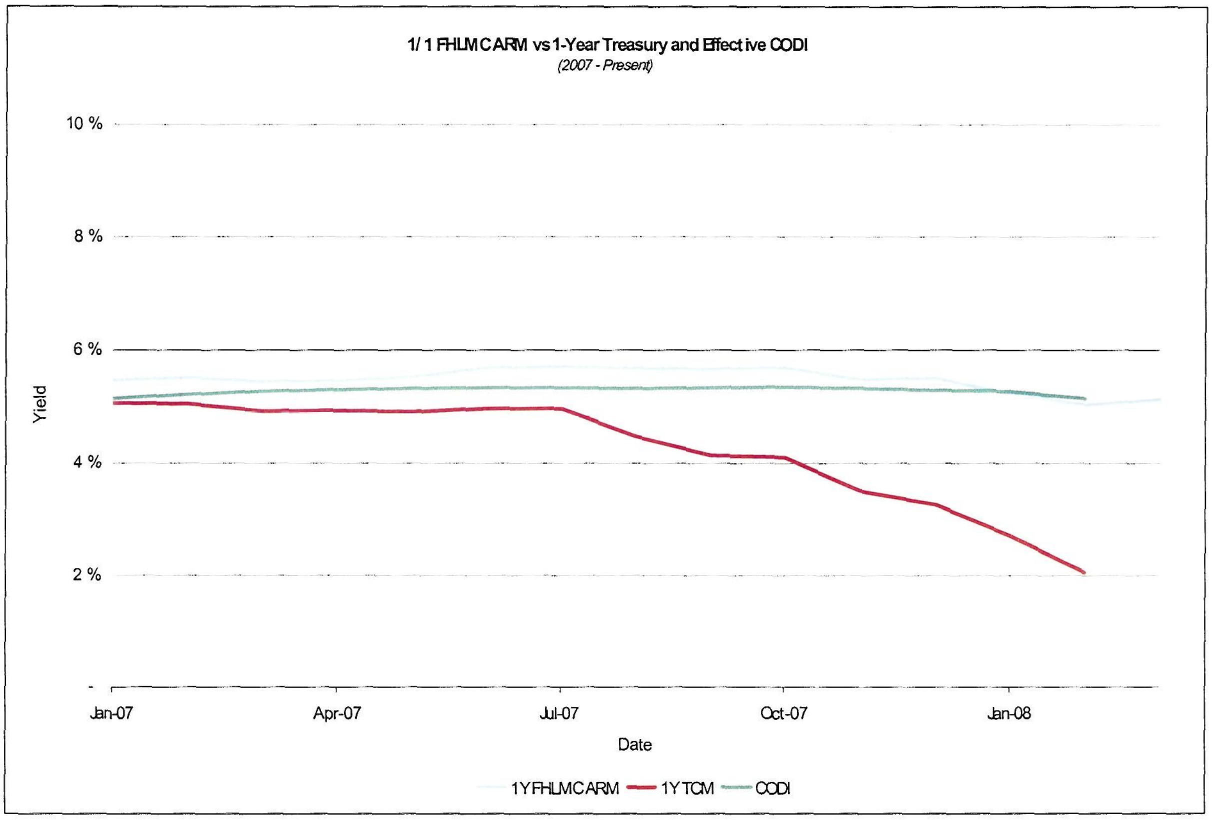
The volatility discussed above is more pronounced with 1-year Treasuries. And, because the proposed rule seeks to match mortgage loans to Treasury securities based on the length of any initial fixed-rate period in cases where the loan is an adjustable-rate mortgage, the proposed rule will have the further unintended consequence of discouraging the use of more customer-friendly indexes for determining mortgage rates for variable rate loans.

For example, in determining rates on certain adjustable rate mortgages at Wachovia, we use the Cost of Deposits Index (CODI), which is a 12-month moving average of the monthly yields on three-month certificates of deposit, as published by the Federal Reserve Board. CODI is a stable index that protects borrowers from rapid changes in interest rates. This index moves up and down less rapidly than the Federal Funds Rate, LIBOR and 1-year Treasuries. A less sensitive index means that rates and payments on variable rate mortgage loans change less rapidly, allowing borrowers greater ability to plan financially and mitigating against extreme, rapid changes in current market rates. However, because CODI is a "lagging" index, it is more likely to result in higher-priced loans in declining rate environments.

Appropriate Alternatives to Treasuries

The Freddie Mac Weekly Mortgage Market Survey rate, as published in the Federal Reserve's H.15 schedule, is one alternative to Treasuries that better correlates to the broader economic forces that impact rates in the mortgage market. It is also less biased against consumer-friendly mortgage loans based on more stable indexes. The following charts illustrate the merits of this proposal:





Wachovia urges the Board to adopt the mortgage rate published in the H.15 as the index for determining higher-priced loans, or to develop and adopt a close approximation of that index.

Factors to Consider in Determining the Spread over the Index

In determining the appropriate spread over an appropriate mortgage market index, we urge the Board to carefully consider the factors that go into determining the published rates. The published Freddie Mac survey data, for example, reflect the best rates available prior to risk-related rate adjustments for FICO score and loan-to-value (LTV) ratio. Such upward rate adjustments may begin at LTVs above 70% and FICO scores below 720. In other words, the Freddie Mac survey rates are available only to exceptionally strong borrowers seeking to finance a home with quite substantial equity in the strongest housing markets.

Housing prices have escalated faster than incomes in nearly all areas of the country, notwithstanding the recent price corrections. As a result, many borrowers with prime credit credentials need loans with loan-to-value ratios in excess of 70%. In addition, many borrowers considered to be excellent credit risks have credit scores below 720. Indeed, in crafting formal guidance for subprime lending in 2001, the federal bank regulators defined a subprime borrower, among other factors, as having a credit score of 660. Many borrowers falling between these two FICO benchmarks would not qualify for the Freddie Mac prime rate today, although they would not be considered subprime borrowers.

In markets where property valuations are relatively less certain and potentially in decline, lenders reasonably add a risk premium to compensate for such uncertainty, not because borrowers are subprime. As a result, loans on properties in such markets would not qualify for the Freddie Mac prime rates. In addition, jumbo loans, even to the most credit worthy borrowers, carry higher rates. That premium is likely to continue despite the recent increase in the maximum conforming loan limits for loans purchased by Fannie Mae and Freddie Mac in high cost areas because of other factors influencing the credit markets. These factors could easily combine to push the rates available to an "average" prime borrower into the higher-priced loan category under the current proposal.

The following example illustrates this point. On February 15, 2008, the 5-year Treasury rate was 2.76%. Adding 300 basis points, the higher-priced loan trigger would have been 5.76%. On February 28, 2008, the 5/1 ARM rate published in Freddie Mac's Weekly Primary Mortgage Market Survey was 5.43%. In practice, typical borrowers that most observers would still regard as prime – ones with very good though not exceptional credit, with downpayments between 10% and 20% – are offered loans with rates 75 to 100 basis points above the rates announced by Fannie Mae and Freddie Mac. Thus, only borrowers with exceptionally good credit credentials and substantial down payments would get loans not considered "higher-priced."

Segregation of Loans Held for Sale and Loans Held for Investment

We urge the Board to exempt from the coverage of the higher-priced mortgage loan definition certain loans held for investment by the originator of the mortgage. Portfolio lenders have very strong economic and reputational incentives to make high-quality loans and to manage credit risk through appropriate pricing, underwriting and appraisal practices, and consumer disclosures. More important, portfolio lenders have a direct and continuing stake in the borrower's ability to repay the loan.

Specifically, we urge the Board to exclude from the definition of "higher-priced mortgage loans" those loans "not originated for resale." The technology is in place to identify and track loans designated to be held for investment upon origination, and to allow examiners to effectively evaluate and monitor those portfolios for compliance. We welcome the opportunity to discuss with the Board an appropriate duration for maintaining such loans in portfolio, additional supervisory rules to further assure compliance, and additional consumer protections as contemplated in the proposed rule.

Comments Relating to Proposed Rules for Higher-Priced Mortgage Loans

Credit Underwriting

The proposed amendments address lenders' underwriting practices; in these comments we focus particularly on proposed rules on debt-to-income ratios, repayment ability, prepayment penalties and verification of income and assets.

Wachovia supports the purposes of the proposed rule changes in regard to underwriting practices, and encourages the Board's efforts to amend Regulation Z that will encourage responsible lending, protect consumers from unscrupulous and unfair practices as well as protect the safety and soundness of mortgage lending institutions and third parties who invest in mortgage loan-based financial instruments. Nevertheless, we have some significant concerns about the efficacy and feasibility of some proposed amendments with regard to credit underwriting practices.

In today's market, underwriting is performed by traditional underwriters as well as by automated underwriting systems. The regulation of underwriting practices is quite complex due to the many factors involved in determining a borrower's creditworthiness. Although we agree that the tools used to determine creditworthiness should be transparent, they are not necessarily the same for all lender or all loan products. For example, automated underwriting systems are based on a detailed analysis of the performance of millions of loans over a period of time. As a result, performance trends by risk attribute are relatively easy to identify. As these performance trends shift, so does the model in an automated underwriting system that utilizes these trends. Multiple risk factors can be analyzed by the automated underwriting system based on how they historically relate to one another (e.g., a significant down payment or conservative credit usage may offset a higher debt-to-income ratio). Use of these types of models permits application of the rules evenly to all borrowers.

On the other hand, traditional "manual" underwriting by an experienced underwriter allows an analysis of the related risk attributes of a loan that provides additional flexibility needed in dealing with more complex loans. This includes, for example, borrowers who may have significant assets but limited income. Although "bright line" benchmarks regarding such factors as debt-to-income ratios and verification of income and assets may have increased importance in today's mortgage lending environment, they should not be mandated without giving due regard to those situations which require the insight, knowledge and judgment of experienced credit underwriters. This type of "hand's on" underwriting, working in conjunction with bright-line tests and benchmarks, facilitates questioning inconsistencies and credibility in documentation and debt ratios as well as justifiably accommodating situations that reasonably fall outside the parameters of the benchmarks.

The proposed amendments regarding income and asset verification and a borrower's ability to repay fall somewhat short in this regard because of their inherent inflexibility. They are less likely to work effectively in real-world situations, may be prone to misuse, would not accomplish the purposes for which they are intended and may discourage lenders from making informed, intelligent underwriting decisions, whether through traditional manual underwriting or an automated underwriting system. Lenders need the flexibility to address the needs of a wide range of individual borrowers without the constraints of excessively rigid requirements that would preclude otherwise creditworthy applicants from obtaining financing.

Therefore, while Wachovia supports requiring a prudent level of documentation and verification with regard to income, assets and repayment ability, we nevertheless respectfully suggest that the proposed rule be modified to accommodate the human insight necessary to determine if the documentation provided to verify income and assets makes sense on its face and is appropriate under the circumstances, and provide that such documentation may be supplemented or substituted as the underwriting situation reasonably dictates. We suggest that the lender have the flexibility to demonstrate that whatever verification and verification methodology was used is reasonable under the circumstances and could otherwise be reconciled with different information about the applicant. Such an approach would simultaneously encourage responsible underwriting and accommodate the myriad financial and income circumstances of different applicants.

Specifically with regard to a lender's assessment of a borrower's ability to repay a loan, the Board has proposed a seven-year safe-harbor period in assessing an applicant's ability to repay. We believe that the seven-year test may often be too restrictive. Unexpected job loss, death, divorce, illness and natural disasters cannot be foreseen, and fair lending precepts would preclude some considerations for persons who change employers frequently or who have or will shortly retire. Wachovia respectfully suggests that the seven-year safe harbor threshold be modified to three years to accommodate these kinds of unforeseeable circumstances as well as consider fair lending ramifications.

Presumption of Pattern or Practice

Wachovia acknowledges that it is appropriate for the rules as amended to include a presumption of violation if a lender engages in a pattern or practice of insufficient or inappropriate verifications. However, a strict interpretation of a narrowly-drafted rule regarding the establishment of a pattern or practice could result in an unnecessary and unintended chilling effect on a lender's ability to make otherwise reasonable loans. If a lender believes that any variation in compliance with a narrowly-drafted rule could result in a finding of a pattern or practice, then such a lender would tend to avoid such variations even if the making of a loan were otherwise reasonable. Wachovia believes that the inclusion of the concept of reasonable verification practices as well as reasonableness in the establishment of debt-to-ratio thresholds would tend to mitigate the potential for such a chilling effect without diluting the quality of underwriting.

Wachovia respectfully suggests that the Board (perhaps in conjunction with other Federal regulators) develop a set of guidelines addressing the acceptable types and levels of flexibility and discretion in underwriting practices in order to assist lenders in meeting the objectives of the proposed rule while avoiding falling into a pattern or practice of inappropriate underwriting practices. Staff Commentaries or separately published joint regulatory guidelines are well-established and successful methods of implementing complicated regulations which require flexibility in interpretation. Additionally, the practice of obtaining comment before publication of any Commentary or guideline provides further opportunity to "fine-tune" the proposed rule. In this way the purposes of the proposed rule would be met while unnecessary and unhelpful adverse consequences would be avoided.

Prepayment Penalties

Wachovia agrees there is the potential for abuse when prepayment penalties trap borrowers in loans with substantial likelihood of payment shock. However, if appropriately structured and disclosed, prepayment penalties provide an economic benefit to the borrower in the form of a lower interest rate or lower origination costs. Depending on the loan and the amount of upfront closing costs charged by the lender, it can take 36 months or more for a lender to recover loan costs not paid by the borrower at closing. To maintain the economic benefit of prepayment penalties while providing flexibility to borrowers with loans that can result in significant payment increases, we recommend applying the requirement that prepayment penalties expire 60 days prior to a payment increase only to loans in which the potential principal and interest payment increase is greater than 15 percent. Otherwise, for most adjustable rate mortgages, the 60-day requirement would effectively limit prepayment penalties to ten months.

Requirement to Escrow

While Wachovia is supportive of escrow accounts, we have concerns about requiring them for all customers with loans deemed to be higher-priced. The proposed regulation does not make any distinction between purchase money and refinance transactions, and we believe that requiring escrow accounts for refinance transactions may lead to negative experiences for consumers who were not previously required to fund these accounts at the time of purchase. Furthermore, requiring the use of escrow accounts does not provide any additional benefit or protection to customers with demonstrated ability to manage tax payments and insurance premiums on their own. Customers with lower loan-to-value ratios or sizeable liquid assets often neither need nor want escrow accounts, preferring instead to pay their taxes and insurance themselves. In addition, requiring escrow accounts for only the first 12 months after origination does not offer any extended protection for those consumers who may need these accounts to help allocate funds for tax payments and insurance premiums and may also serve to worsen the negative experience for consumers who already object to being required to establish an escrow account.

It is our opinion that requiring escrow for customers who do not need these accounts to help budget for tax payments and insurance premiums does not serve the regulation's intent of protecting borrowers. Therefore, to mitigate the impact on customers who neither need nor want escrow accounts, we recommend that the escrow requirement be limited to (1) purchase money transactions and (2) loans with loan-to-value ratios over 80% at the time of origination. We further recommend that customers with liquid assets greater than or equal to 25% of the loan amount be exempt from the escrow requirement.

Comments Relating to Proposed Rules for Mortgage Loans

Unfair Servicing Practices (posting customer payments, pyramiding late fees and providing payoff loan statements)

Wachovia is in agreement with most aspects of the proposed amendments prohibiting certain fee and billing practices; however, we do have comments regarding requirements with respect to same-day payment posting and providing payoff statements.

For same-day payment posting (i.e., crediting payments on the same day received), we recommend instituting standardized times of receipt, based on method of payment, after which payments will be posted to the next business day. First, we recommend that payments made directly to the institution (e.g., through a teller) be posted to the same business day if received by 2:00 p.m., in accordance with generally accepted industry standards. Second, we recommend that a payment received by a lockbox or other third-party service provider be posted to the date the payment was actually received rather than the date the lender receives notification from the service provider. We further recommend that the same-day posting requirement apply only to full payments, as partial payments generally require more time intensive manual processes to post properly.

Regarding requests for payoff statements, we recommend that customer and third-party payoff requests have different time-of-response requirements. We propose that customer requests be processed within 5 business days and third-party requests, which require additional processing time to confirm customer permission before releasing account information, be processed within 10 business days.

Advertising

Wachovia agrees with the majority of the proposed amendments addressing advertising practices and disclosures. With few exceptions, we believe the proposed rule changes would aid consumers in making more informed decisions for home-secured financing and may lead to greater lender responsibility in advertising the availability of credit. Nevertheless, we respectfully submit the following comments regarding the clear and conspicuous, equal prominence and close proximity requirements.

The proposed standards for triggered disclosures (i.e., to be "stated with equal prominence and in close proximity to the statement of the initial APR") may provide additional clarity for print advertisements; however, Wachovia requests that the Board clarify that this information is required to be prominently and proximately displayed only in one instance of a promotional rate. To do otherwise likely would cause the presentation of product information in a marketing format that would be too cluttered and cumbersome, leading to more consumer confusion. Wachovia requests that the Board instead allow the disclosure of the potential "high and low" rate and/or payment information, clarification as to how the payments would be calculated, and any potential negative effects to the outstanding loan or line balance to be disclosed.

Providing the high and low payment and/or rate information would adequately enable consumers to understand the varying payment amounts they could expect to pay over the term of the loan without obscuring the advertised product information with excessive information based on speculative future rate changes. Wachovia also requests that the Board consider allowing this information to be provided either within a footnoted disclosure narrative or in a table similar to the Schumer Box used in credit card solicitations, rather than within the advertising copy. A similar disclosure table would provide an industry standard, which would help avoid further consumer confusion while providing consumers with the necessary information to make an informed product decision in a consistent format.

This approach was used in the Interagency Guidance for Non-Traditional Mortgages, in which a "safe-harbor" for lenders advertising Interest-Only or Payment Option mortgages is provided with disclosure of a chart that includes a series of only 3 rate changes, payment and balance streams based on hypothetical rate increases. We believe that this adds relevant information for consumers to understand how a product works and the potential impact to their home's equity without clouding these issues with a long list of potential payment streams.

Rate of Finance Charge

The Board has acknowledged that the development of new, innovative products has increased home ownership and allowed more consumers access to credit products. While some versions of the payment option mortgage have been under great scrutiny due to negative impact on uninformed consumers, Wachovia's product has safeguards built in to help protect consumers while still providing the benefit of viable home financing and flexible payment choices. Those safeguards include a negative amortization cap, annual minimum payment increase cap, and payment recast scheduled up to 10 years from the first payment date. In addition, interest and payments on many of these loans are based on the Cost of Deposit Index (CODI), which provides a historically less-volatile index for interest payment calculations. Also, consumers are qualified at the fully-indexed rate and fully-amortizing payment, not the lower initial minimum payment rate, to avoid the potential for payment shock. Finally, a comprehensive customer service program supports the consumer after loan closing that includes customer outreach calls and a clear, comprehensive billing statement so that consumers are able to make informed payment choices. As a responsible mortgage lender, Wachovia feels that all of these precautions assist consumers in the pursuit of homeownership by providing this innovative, consumer-friendly payment-choice product.

A standard practice in advertising this payment option product is to advise consumers of the various payment choices available to them, including the initial minimum payment. When the minimum payment is advertised, a disclosure that explains the minimum payment rate of X% is not the loan interest rate and is subject to increase. This is in addition to a detailed disclosure that explains how the initial minimum payment will increase by 7.5% each year until year 10, or when the loan balance reaches the maximum value threshold. In addition, the loan's actual interest rate and APR are advertised in addition to, and more prominently than, the payment rate.

Wachovia believes that to prohibit advertising the minimum payment rate would prevent consumers from obtaining critical product information that is necessary to make an informed loan product decision. Therefore, Wachovia strongly encourages the Board to consider revising the proposed rules to allow the advertisement of a minimum payment rate and require that sufficient disclosure also be provided when the minimum payment rate is advertised. This would enable consumers to clearly differentiate the payment rate from the loan's interest rate and understand subsequent increases and potential negative amortization that are inherent with the payment option product. Without the ability to advertise the minimum payment rate, the lender's responsibility to explain adequately all features of the product, as well as the responsibility to ensure the consumer is fully aware of, and fully understands, both the positive and negative aspects of the product during their decision-making process, would be diminished. Wachovia believes that this outcome is contrary to the Board's intent and asks that this prohibition be removed or changed to require disclosures for advertising minimum payment rates.

Reasonably Current Rates

Wachovia requests that the Board clarity the standard for "reasonably current rates" applicable to television and radio advertisements, as the proposed amendments do not currently provide such a definition. Wachovia suggests the Board define "reasonably current rates" for television and radio in the same manner as print advertisements, requiring that they be current within *30-days prior to print* rather than following the *30-days prior to viewing* requirement for electronic advertising. Unlike electronic (e.g., internet) advertising, through which an advertiser may be in control of the ability to update and maintain advertising within short time-frames and at a reasonable cost, advertisers could not ensure that each television or radio station would begin using a "newly-revised" version of an advertisements immediately upon receipt. Wachovia has experienced that some stations can take several weeks to begin running a revised advertisement and this would make compliance with a "30-days prior to viewing" requirement impossible. In addition, interest rates used in those television advertisements can be up to 30 days old before final cuts are sent to the station due to the time it takes to develop television advertising. Advertisers can, however, ensure their advertised credit terms are accurate when the ad is developed, and is why the "30-day prior to print (or development)" requirement would be more appropriate for television and radio.

Wachovia believes strongly that television and radio are two of the best ways to reach the average consumer since these mediums reach a larger audience and allow lenders to effectively advertise the availability of credit to consumers who may otherwise be uninformed and fall victim to predatory lenders. To limit the scope of product or rate advertising to ads that exclude rates and loan terms (i.e., that trigger payment examples) or advertise rates would effectively limit Wachovia's outreach efforts to serve its communities. With a 30-day prior to print standard for television and radio advertisements, lenders could continue to ensure that advertised rates are accurate as of the date of development and continue using these media outlets to reach prospective borrowers who may otherwise not realize that "better" credit terms are available from reputable lenders. However, Wachovia agrees that rate advertisements should reasonably reflect the current market conditions and not be made available to the public for an indefinite period of time and suggest that in addition to a "30-day prior to print" standard for television and radio advertisements, the Board also prohibit advertisements of rates that exceed a specific period of time, such as 6 or 12 months. This would enable lenders like Wachovia to continue advertising its availability of credit to the general public through television and radio advertisements and allocate advertising dollars for them effectively.

Mortgage Loan Disclosures

The Board proposed amendments would require early mortgage loan disclosures, before the consumer pays a fee to any person, for closed-end residential mortgage transactions subject to RESPA that are secured by the customer's principal dwelling. Currently, under Regulation Z 226.19(a)(1), lenders are required to make good faith estimates of the provide early Truth-In-Lending disclosures on a residential mortgage transaction subject to RESPA before consummation, or shall deliver them not later than three business days after the creditor receives the consumer's written application. However, this requirement has never required the disclosures to be provided prior to a fee paid by the consumer. For many lenders, in a typical mortgage transaction, it is not unusual to collect an application fee, credit report fee, appraisal fee, and possibly a broker fee at the time of application. Because the disclosures are automated, they are sent within the three business day timeframe provided in the regulation.

Within Wachovia, providing the early Truth-In-Lending disclosures prior to the collection of any fee other than a credit report fee will impact the origination systems of three out of four real estate lending units and require significant programming. The programming requirements to implement such a change are both expensive and time-consuming; we estimate that it would take a minimum six months to implement. In addition to requiring a major programming effort, this proposal raises several other issues of some concern:

- Providing the early Truth-In-Lending disclosures at time of application is not beneficial in most cases in the home equity/non-purchase money lending context because home-equity loan requests often change during processing. A consumer may change various terms of the original request which in turn requires the lender to reprocess the application each time. Often at the time of application, home equity consumers are not sure of all the details of their loan requests, whereas in residential mortgage transactions, the consumers know the purposes and how much they need. In the home equity lending environment, consumers are often offered different products or change their mind about why they want the loan and how much they wish to borrow. An example is that a consumer may originally apply simply to refinance an existing loan, but after discussion with the lender, he or she decides also to borrow for home improvement and/or debt consolidation purposes. These types of changes and the wide variety of options from which to choose could create consumer confusion if the lender is required to re-disclose or if the terms are substantially different than those in the original request. That in turn will slow the processing time for the consumer.

- For a significant number of applications taken by telephone in several business channels, fees are collected at application and the disclosures are provided within three business days thereafter. This new provision would limit the lender's ability to collect fees up-front and result in delays the application process.

- Some systems permit lenders' mortgage consultants to access the system and print early disclosures. However, some older systems do not have this functionality and also do not have the capability to record when the disclosures are printed and by whom. Several systems simply do not have the capability to produce early Truth-In-Lending disclosures in a face-to-face application process.

- The proposed amendment seems to cover fees collected by <u>any</u> party. Since Regulation Z does not currently apply to mortgage brokers, they are not required to provide the Truth-In-Lending early disclosures. Under the proposed rule, not only must lenders wait until the early Truth-In-Lending disclosures are provided before collecting fees, but so must mortgage brokers. Some of Wachovia's business units are wholesale lenders. As a wholesale lender, Wachovia provides early disclosures within three business days of receipt of the application from the mortgage broker. Wachovia can control collection of its own fees. However, Wachovia is not a party to the transaction prior to receipt of the application and cannot control the collection of up-front fees by mortgage brokers. Also, it would appear that if a mortgage broker collected a fee prior to the lender's providing the early Truth-In-Lending disclosures, the lender would not be able to accept the application without risking being deemed in violation of the proposed rule. Thus, lenders will be put in the position of having to verify whether the mortgage brokers have in fact provided the early Truth-In-Lending disclosures prior to collecting a fee, which will be difficult if not impossible to monitor. A clarification of whether and how the rule applies to mortgage brokers would be beneficial to mortgage brokers and lenders alike.

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Wachovia appreciates this opportunity to comment on this proposed rulemaking, and we thank you for considering our comments.

Sincerely,

Eugene M. Katz