From: "Denise M. Leonard" <dleonard@massmort.org> on 04/08/2008 04:25:10 PM

Subject: Regulation Z

Board of Governors
Federal Reserve Board

Re: Docket No: R-1305

To Whom It May Concern:

I am writing on behalf of the Massachusetts Mortgage Association ("MMA") and the Connecticut Society of Mortgage Brokers ("CSMB"). The MMA and CSMB are industry associations that collectively represent approximately 800 mortgage brokers, lenders, wholesale lenders, credit unions and other industry professionals. We thank you for the opportunity to provide you with our written commentary relative to the Proposed Rule amending Regulation Z (73 Fed. Reg. 1,672, Jan. 9, 2008).

Our organizations believe strongly that the reality of today is that any regulatory, governmental or legislative effort must take into account how the mortgage market has evolved in relation to the current regulatory environment and the burgeoning growth of the secondary market for mortgages. The problems facing the mortgage market are not exclusively attributable to one economic factor, one product type or one distribution channel. They are the result of factors which include, but are certainly not limited to: job loss, decreases in home values, 17 consecutive increases in interest rates, origination, underwriting, servicing, and the secondary market. While some of these factors cannot directly be controlled by the mortgage industry (i.e., job loss, home values and rates increases), the other factors already mentioned have been significantly adjusted, and many of those changes have been positive, however, others will elongate the "credit crunch" and housing "crisis" we are facing and cripple the ability of a healthy recovery.

For instance, federal and state agencies have tightened their regulatory controls through both legislation and regulation relative to the origination and underwriting of mortgage loans. More specifically at our state level, the Massachusetts Division of Banks recently issued emergency regulations to expand the scope of prohibited practices under Chapter 255E, adopted the FFIEC's Guidance on Non-Traditional Mortgage Products and the CSBS/AARMR Statement on Sub-Prime Lending, promulgated additional regulations relative to increased barriers to entry for mortgage brokers and lenders in the Commonwealth in terms of increased educational and experience requirements as well as increased net worth requirements and supported our legislation to license mortgage originators, which has currently been enacted into law. Our organizations have supported these initiatives and strongly support other numerous consumer protection measures, some of which are addressed in the proposed rule, and many of which currently exist under the jurisdiction of other federal and state agencies.

In terms of underwriting, servicing and the secondary market, significant modifications have taken place. Investment banks that securitize mortgages have tightened their wholesale lending requirements and have enforced buyback agreements. Underwriting guidelines have been radically restricted; contracts between mortgage lenders and mortgage brokers continue to require strong buyback commitments from the broker for originating non-performing loans.

The Officers, Directors and Members of our associations applaud the Board's commitment to consumer protection and support many of the proposed rule's initiatives relative to those measures that target abusive practices such as misleading advertising, fraudulent appraisals and irresponsible lending practices. We do, however, oppose the facets of the proposed rule that would impede competition and thus harm consumers, and that blatantly ignore reliable studies and research as well constructive industry involvement with regard to detrimental consumer and economic impact.

We believe that there should not be a rush to propose and implement additional amendments as the adjustments and modifications mentioned have already notably impacted the mortgage industry in terms of resolving its current state. In a market where the subject products do not exist, the conflicts and unintended consequences of the regulations will further remove credit from the reach of needy consumers at a critical time, while providing insufficient benefit to offset the diminution of credit opportunities. Viable and effective alternatives should be sought to not impede the future of the housing industry and consumers' ability to obtain financing at a fair and competitive price.

The most significant negative proposal set forth by the Board is the disparate treatment of mortgage brokers through the imposition of compensation disclosure prior to application and restriction. Mortgage brokers already disclose their total compensation as required by HUD. Points, fees and yield spread premiums are disclosed to the borrower within three (3) days of application. It is not possible for brokers to disclose their compensation prior to that, as there is no accurate way to price a loan for a borrower without first obtaining significant data relative to the transaction. Credit, income, loan to value, closing costs, etc., are all factors that impact the loan product, program and pricing that a broker can offer to a consumer.

The mortgage distribution channels that exist today are in direct contrast to those of the recent past, and the Board's proposed rule fails to address those changes. Banks, lenders and brokers originate loans in the same manner, yet only brokers are required to disclose their compensation. In order to provide prospective borrowers the ability to truly comparison shop, all distribution channels should be required to disclose their compensation. The persistent focus on only broker compensation, primarily yield spread premium, is not only unwarranted, but stands to significantly cost consumers millions of dollars in higher costs through the elimination of the broker channel and the unfair advantage that will be given to banks and lenders to steer consumers away from brokers who have been proven to provide more cost saving choices to consumers. Additionally, yield spread premiums are not just monies used to compensate brokers, they are utilized to offset certain consumer costs and facilitate the loan transaction in the same manner as service release premiums are utilized by banks and lenders. With no intended disrespect, we must ask, does the Board really believe that banks and lenders are able to offer no cost loans to consumers without receiving any compensation? If the intent is to truly protect consumers, then the Board cannot ignore the relevant and comprehensive research that has proved over and over again that additional disclosure of mortgage broker compensation creates considerable confusion for consumers, leads them to a bias against broker-originated transactions, inhibits fair competition, and most importantly harms consumers by causing them to choose more expensive loans.

As all brokers are, Massachusetts and Connecticut mortgage brokers are already subject to extensive federal and state regulations that focus on licensing and the manner in which they must conduct their business not only in terms of performance and compliance, but more importantly, in terms of consumer protection. We respectfully request that the Board re-evaluate its intent to complement current federal regulations and minimize any duplication, as we believe that the proposed rule does not succeed in doing that. It fails to consider how the proposed rule relates to, and in some cases, conflicts with other provisions of current federal and state laws.

In conclusion, the MMA and CSMB again thanks the Board for its consideration of these comments and respectfully requests that it consider alternatives to the proposed rule that will protect consumers and brokers and promote fair competition throughout the industry.

Respectfully submitted,

Denise M. Leonard
Executive Director
Massachusetts Mortgage Association
607 North Avenue; Building 14/2
Wakefield, MA 01880
(781) 246-0601
dleonard@massmort.org

Peter Spalthoff
Executive Director
Connecticut Society of Mortgage Brokers
26 Broad Street
Milford, CT 06460
Phone: (203) 874-3090
pspalthoff@csmbct.com