

April 8, 2008

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

RE: Docket No. R-1305; Regulation Z; 12 CFR 226; Truth in Lending;
Proposed Rule

Dear Sir or Madam:

On behalf of an informal group of companies that either issue or administer debt cancellation contractions (DCCs) and debt suspension agreements (DSAs), the law firms of Barnett Sivon & Natter, P.C. and McIntyre Law Firm, PLLC appreciate the opportunity to comment on the Federal Reserve Board's (Board) proposal to amend sections of Regulation Z related to high cost mortgage loans. Specifically, we request clarification of the treatment of monthly-fee DCCs or DSAs in the points and fees calculation.

Background

In 2001, the Board amended Regulation Z to define the phrase "points and fees" for purposes of the high cost mortgage rule to include DCC fees.¹ The Board took this action primarily in response to concerns over the cost of single-premium credit insurance products. Following the Board's action, the Comptroller of the Currency amended its regulations to prohibit national banks from offering single-fee DCC products in connection with mortgage loans.² Likewise, a number of states have since prohibited state banks and other licensed lenders from financing DCC fees in connection with mortgage loans.³ As a result of these actions, we are not aware of any lenders that continue to offer single-fee DCC products in connection with mortgage loans. Our request, therefore, relates to the treatment of the voluntary monthly-fee DCCs and DSAs in the points and fees calculation.

Clarification Requested

We respectfully request that the Board use this opportunity to clarify, either in the preamble to the final rule or in official staff commentary to Regulation Z, that only the initial

¹ See 12 CFR 226.32(b)(1)(iv).

² See 12 CFR 37.3(c)(2).

³ Ark. Code Ann. Section 23-53-101 et seq.; Colo. State. Ann. Section 5-3.4-101 et seq.; Ga. Code Ann. Section 7-6A-1 et seq.; Ind. Code Ann. Section 24-9-1-1 et seq.; N.J. Rev. Stat. Section 46:10B-25; N.Y. Banking Law Ch. 626 Laws of 2002; R.I. Gen. Laws Section 34-25.2-4 & -5; S.C. code Ann. Section 37-23-20 & -70; Tenn. Code Ann. Section 45-20-103.

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monthly-fee of a voluntary monthly-fee DCC or DSA⁴ product be included in the points and fees calculation. Such a clarification would be consistent with the nature of the monthly-fee product since a customer who purchases the product is obligated only to pay the initial monthly-fee, and may cancel the product at any time. Such a clarification also would be consistent with the preamble to the Board's 2001 amendment to Regulation Z, which implies such treatment, and the manner in which we understand Board staff have informally interpreted the rule.⁵

Sincerely,

James C. Sivon
Barnett Sivon & Natter, P.C.

James T. McIntyre
McIntyre Law Firm, PLLC

⁴ In a separate rule-making procedure, the Board has proposed to recognize DSAs in Regulation Z. See 72 Fed. Reg. 32948 (June 14, 2007).

⁵ See 66 Fed. Reg. 65604 (December 20, 2001).