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Subject: Regulation Z

Comments on Proposed Rules and Amendments to the Truth-In-Lending Act
Docket No. R1305

As a mortgage broker, I applaud the Federal Reserve Board for addressing the need for regulatory reform in the mortgage origination industry. The input solicited and received document the Board's dedication to a well designed and simplified mortgage origination, approval and closing process. I also share the Board's goal of consumer protection through responsible lending practices to achieve sustainable homeownership.

In implementing reform, I would humbly ask the Board to consider the evolutionary (possibly even revolutionary) changes to the mortgage origination process in the past 25 years.

First, the development of the mortgage broker filled unmet needs of both mortgage consumers and mortgage investors, and reduced the average costs of obtaining mortgage financing. As an individual who purchased my first home in the mid 1980s, I have the proof of the high cost of obtaining a mortgage. I had above average credit, above average household income and a 10 % down payment. I paid the bank 3 points of origination. This was standard for the area. I had the option of a 30 year fixed at 18.75% or a one year adjustable at 16%. I paid mortgage insurance for 12.5 years before I realized I could apply to have that $23 monthly charge dropped. This would be considered a high cost, predatory loan today. Studies by the group Wholesale Access support the fact that **mortgage brokers have been the low cost mortgage originators since the early 1990s, driving the average costs of home financing down. This should not be a surprise in a free market economy – competition lowers prices and is good for consumers. Regulations that limit only the profitability of one segment of mortgage originators may well result in an erosion of competition; the result may be profit taking in the remaining segments of the industry: In this case, the banking industry, were profit taking in future mortgage originations could offset losses of foreclosures, at the expense of "new" first-time homebuyers.**

As the mortgage delivery system was changing, so was the American economy. Consumers increasingly relied on credit (student loans, credit cards, etc.) and concurrently found job security and stability eroding. Mortgage brokers identified the changing needs of consumers, who were increasing their use of (and possibly dependence on) credit and credit cards, changing both jobs and careers more frequently and moving more often. Mortgage brokers communicated these needs and changes to investors and lenders who adjusted guidelines and supplied the new mortgage products to meet the needs of first-time homebuyers and those looking to "move-up. The reality of American consumers in the past two decades is they have higher debt ratios, unconventional and varied income streams, and multi-generational households. In addition, due to the changing American job market they often have recently changed lines of work or are small business owners that cannot adequately document income per mortgage underwriting guidelines; many work as independent contractors, with no health care benefits, just to earn a living.

Eliminating the stated income, "low doc" or alternative documentation mortgages that were developed to allow these individuals to obtain a mortgage will exclude many Americans from the opportunity to qualify for a mortgage, the most unique and powerful investment available for low and moderate income families. The power of this investment in building wealth is that money used to purchase the basic need of shelter is "invested" to pay off a mortgage debt in an appreciating asset. To exclude the growing low to moderate income segment of the American population from this investment vehicle will increase the numbers of the "working poor" in America.

To assure the continued viability of all mortgage origination entities, I propose the Federal Reserve Board consider the establishment of a regulatory body to oversee all mortgage origination in the United States. Each individual who originates a mortgage, and the entity that employs a mortgagor originator, would comply with the same regulations, guidelines, registration requirements, licensing requirements and audit/examination requirements. This creates consistency and simplicity for consumers, and insures a level playing field for competition between mortgage originators. This is the only meaningful reform that provides real consumer protection and simplicity. The states could have enforcement responsibilities and enact regulations more stringent than the federal minimum requirements. Current regulators such as OCC and FDIC would continue to have regulatory oversight of other banking/lending activities. However, all mortgage origination activities would be regulated by federal guidelines, originators federally registered and employers federally regulated.

I understand the desire to simplify the mortgage application and approval process. Unfortunately, it seems the proposed regulations rely heavily on APR as the benchmark and tool to accomplish vital aspects of reform. **The APR and Truth-In-Lending disclosure on which it is "calculated" is the single most confusing disclosure in the entire mortgage process.** This metric is obsolete and inaccurate, subject to some of the most base and simple manipulations in the industry. It is the centerpiece of some of the most misleading and common advertising in the industry, the "mortgage market rate guide". The examples given by the CMPS Institute are very clear, and only illustrate a fraction of the abuses. (These examples can be found at http://www.cmpsinstitute.org/pdf/CMPSCommentsforFRB.pdf). Attorneys often brush over the APR and Truth-In-Lending at purchase closing in IL. In fact, I often hear variations of the following explanation by a buyer's attorney: "This number is a figment of the federal government's imagination – sign the form or you don't get the money to purchase your home." Obviously, the forms desperately need revision, and APR is not meaningful.

Revision the Truth-In-Lending also involves a discussion of both Yield Spread Premium and pre-payment penalties.

I find it alarming that even the Federal Reserve Board discusses YSP as a payment made to a mortgage broker when the consumer is given a higher interest rate. None of these discussions involve a definition of "higher than what"? It is higher than "par" pricing – the price where the bank pays nothing for purchasing the servicing rights to the loan from the broker. The rate without YSP is not a rate available at a bank, savings and loan or credit union; those entities also give the consumer a higher rate, because they also pay their employees who originate loans. The impression that consumers could go out and get a mortgage at "cost" is erroneous. Many brokers give consumers choices based on how much they choose to pay in origination – often borrowers are given "par" pricing, but they pay more in origination fees. **Every mortgage originator works for an entity that makes money from the origination, and the consumer could get a lower rate if the originator paid all costs of doing business and made nothing for the origination work done for the borrower. Therefore, all originators should be required to disclose what they are making. If, in the case of a bank, they cannot calculate what they will make, they should explain this to the borrower in the same way a broker explains what he/she makes and how. The CMPS Institute's response includes a good alternative disclosure, attached as Addendum A and entitled a Home Mortgage Summary Disclosure Form (see comments at** http://www.cmpsinstitute.org/pdf/CMPSCommentsforFRB.pdf)**. This disclosure both simplifies the application process and shortens it by rolling several disclosures into one document.**

The discussion of pre-payment penalties found in the CMPS Institute's comments (available at http://www.cmpsinstitute.org/pdf/CMPSCommentsforFRB.pdf) is good, and I agree with the content and recommendations for disclosure. **However, the Federal Reserve Board's comments nor the CMPS Institute comments mention the dilemma of FHA mortgages, which allow a pre-payment penalty in the form of an entire month's interest charge when paid off, regardless of the date payoff is received.** I currently disclose this as a pre-payment penalty, and this interpretation needs clarification from HUD or any proposed disclosure needs to make this distinction.

I also agree with the CMPS Institute's discussion of stated income loans and the recommendations made (available at http://www.cmpsinstitute.org/pdf/CMPSCommentsforFRB.pdf). In addition to my previous comments, I would like to point out the thousands of homeowners in adjustable rate mortgages who have not missed a payment that could benefit from a refinance to lower their rate and payment. Commonly, these individuals have 2 mortgages and many were underwritten under expanded ratio or stated income programs. **If these mortgages could be refinanced under the FHA Secure program, underwritten as FHA streamline income guidelines (no need to prove income if perfect payment history for past 12 – or maybe change to 24 – months as long as mortgage payment was decreasing), many more people who obtained sub-prime mortgages could be assisted in maintaining homeownership than under the current program. With perfect mortgage payment histories, these homeowners have already demonstrated an ability to repay and by decreasing mortgage payments, these are low risk mortgages.**

I urge the Federal Reserve Board to implement regulatory reform that truly simplifies the mortgage origination process, protects the consumer and maintains the viability of all mortgage originators, requiring simplified and full disclosure with every mortgage application. I urge the Board to standardize the mortgage origination industry by federal regulation and licensing of all mortgage originators. I urge the Board to eliminate APR as a tool and benchmark, and replace it with required disclosure of actual costs and terms, and a requirement to re-disclose changes of more than 10% to the borrower prior to closing. Finally I urge the Federal Reserve to reconsider the position of non-traditional underwriting, and make suggested recommendations to HUD regarding the current sub prime mortgages resetting in 2008 and 2009.

Thank you for the opportunity to respond to Docket NO. R1305.

Respectfully submitted by,
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