

Alan White
Professor of Law, Valparaiso University

Kathleen Engel
Professor of Law, Cleveland-Marshall College of Law

Patricia McCoy
Professor of Law, University of Connecticut

Lauren Willis
Associate Professor of Law, Loyola Law School of Los Angeles

Christopher Peterson
Professor of Law, University of Utah

Meeting with Governors Kroszner and Mishkin on April 25, 2008
Regulation Z (Truth in Lending)
Docket Number R-1305

On April 25, 2008, Mr. White, Ms. Engel, Ms. McCoy, Ms. Willis and Mr. Peterson (“attendees”) met with Governor Randall Kroszner, Governor Frederic Mishkin, staff of the Board’s Division of Consumer and Community Affairs and staff of the Division of Research and Statistics to provide comments on the proposed amendments to Regulation Z (“the proposal”). The attendees expressed the following comments on the Board’s proposal:

- The proposal’s “supplementary information” wrongly asserts that the subprime mortgage market increased the rate of homeownership and access to credit.
- The Board should ban prepayment penalties for subprime loans. Evidence shows that prepayment penalties do not provide benefits to borrowers, and they are not transparent to most consumers. Penalties are not needed to offset prepayment risk; creditors could price risk into interest rates.
- The Board should remove the “pattern or practice” element from its proposed repayment ability rule and current rules applicable to the highest cost loans under 12 CFR 226.32(a)(1). The “pattern or practice” element makes it impossible for an individual consumer to seek redress for an unaffordable loan and impairs the ability of State officials to bring actions. The pattern or practice element will also result in more class action litigation.
- State laws that prohibit making a single loan without regard to repayment ability have not resulted in credit drying up.
- The Board should work with the Department of Housing and Urban Development (HUD) to require early and firm mortgage cost disclosures to consumers. There should be a mandatory waiting period before closing to ensure consumers have time to consult a housing counselor.

- If the Board finalizes the proposed rule on mortgage broker compensation, the Board should eliminate the two proposed exceptions to that rule.
- The Board should prohibit a broker from providing a loan that is less favorable than a loan the consumer could otherwise qualify for.
- The Board should prohibit “yield spread premiums” for subprime loans.

Attachments