April 8, 2008

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

RE: Regulation Z, Docket No. R-1305

Dear Secretary Johnson:

The South Carolina Association of Community Development Corporations (SCACDC) believes that the Federal Reserve Board has taken an important step in proposing changes to its Regulation Z that are intended to end unfair and deceptive practices on high-cost loans. The nation faces a foreclosure crisis in large part because risky lending was not constrained due to a lack of consumer protections and safety and soundness standards. Foreclosures are projected to be at least 2 million in the next couple of years.

The SCACDC is a trade association and funding intermediary of non-profit agencies known as community development corporations (CDCs). CDCs are community groups that fight poverty in low-income neighborhoods throughout South Carolina. For thirteen years, the SCACDC has built an industry of community-based economic development agencies in the state's most distressed communities. As a result, opportunities to build wealth exist for many South Carolinians, but long-term financial security is out of reach for families without sufficient asset protections.

Overall, South Carolina earned a D grade on the Corporation for Enterprise Development's (CFEDs) 2007-2008 *Assets and Opportunity Scorecard*. The current homeownership picture appears strong in South Carolina (A grade) and may contribute to the low incidence of bankruptcies in the state (3rd in bankruptcy rate) in preceding years. The state also ranked 7th in affordability of homes, 6th in homeownership by income, and 11th in overall homeownership. However, a 45th ranking in foreclosures shows that the benefits of homeownership have not been sustained, and many households still have little or no net worth (39th in net worth, 42nd in households with zero net worth) to help weather economic hardships. The later data set shows that homeowners in our state are vulnerable and easily fall pray to predatory lenders and practices that turns their dreams into a nightmare.

While the Federal Reserve's proposal is critical and overdue, it has openings and exceptions in its major provisions dealing with unfair lending practices. The proposal has commendable aspects, but these open areas could significantly weaken important provisions of the proposed rule. We urge the Federal Reserve to address these areas and ensure that there are no opportunities to circumvent its major provisions.

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Our comments on specific aspects of the proposal include the following:

Ability-to-Repay: We support the proposal's ability-to-repay standard. The proposed standards will curb the practice of qualifying borrowers on the initial, teaser rate – a practice that has contributed to "payment shock" and borrowers becoming delinquent after the loan's rate increases dramatically from the initial rate.

Unfortunately, other aspects of the proposed ability-to-repay standard have the potential to undermine protections against unfair and deceptive lending. For example, the proposal requires documentation of income but then contains an exception that essentially permits the practice of limited documented lending to continue. In addition, the proposed rule should require that a lender assure a borrower can repay during the entire term of the loan, not just the first seven years. Finally, and importantly, the ability-to-repay standard requires borrowers suing lenders to prove that the lenders exhibited a pattern and practice of making unaffordable loans. This is a very difficult standard for borrowers of limited resources to prove. The Federal Reserve should at least allow individual lawsuits under a standard that is not so difficult to prove.

Escrows Required: The proposal recognizes the importance of requiring escrows on high-cost and very-high cost loans. Yet, it permits a lender to allow a borrower to opt-out of escrow requirements after twelve months. Borrowers not familiar with the loan process can be swayed to opt-out of escrow requirements and then face unaffordable expenses. The proposal should not allow for the elimination of escrow requirements on high-cost and very-high cost loans.

Prepayment Penalties: The proposal to ban prepayment penalties after 5 years is too long of a time period for high-cost and very-high cost loans. Some borrowers may need to refinance before that time to escape unaffordable loans. We urge the Federal standard for borrowers of limited resources to prove. The Federal Reserve should at least allow individual lawsuits under a standard that is not so difficult to prove.

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Prepayment Penalties: The proposal to ban prepayment penalties after 5 years is too long of a time period for high-cost and very-high cost loans. Some borrowers may need to refinance before that time to escape unaffordable loans. We urge the Federal Reserve to set a limit of between two to three years. The prepayment penalty should also be limited to a reasonable dollar amount so that the penalty does not pose a barrier preventing a refinance into a lower cost loan. In addition, we agree with the Federal Reserve that prepayment penalties must cease before the initial rate expires on an adjustable rate mortgage (ARM) loan. But we urge the Federal Reserve to require

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prepayment penalties to cease 90 days before the expiration of the initial rate, not 60 days as proposed.

Yield Spread Premiums: Yield spread premiums (YSPs) must be banned on high-cost and very-high cost loans instead of the proposed improvements in disclosures of YSPs. The subprime market is too complicated for borrowers unfamiliar with the loan process to be assisted in a meaningful way by enhanced disclosures of YSPs.

Protections for All Loans: We support the proposed protections against appraisal fraud, servicing abusive, and deceptive advertising. We also support the proposed requirement that good faith estimates (GFE) of loan costs for refinance and other non-home purchase loans be supplied to borrowers before payment of application fees.

We urge the Federal Reserve to add protections in the area of servicing. For example, the Federal Reserve must require reasonable loss mitigation efforts before foreclosure proceedings are commenced. Protections against appraisal fraud must require a new appraisal and an adjusted loan amount in cases when the original appraisal was inflated.

Non-Traditional Prime Loans not Covered: The Federal Reserve has proposed protections regarding ability-to-repay, escrows, and prepayment penalties for high-cost loans only. It has not proposed these protections for exotic prime loans such as option ARM loans that have proven to be very problematic. The Federal Reserve must cover non-traditional prime loans as well.

Liability for Secondary Market: Aside for violations including very high-cost loans, the secondary market's liability is quite limited. Since most subprime loans are sold to investors, the limited liability for investors provides no effective redress for borrowers. At the very least, the Federal Reserve should broaden liability and allow individual borrowers to seek redress, if not class action lawsuits.

Conclusion

We urge the Federal Reserve to significantly strengthen and implement its proposal. Inadequate consumer protection regulation has significantly contributed to the foreclosure crisis and the current economic uncertainty. At the same time, Congress must pass a strong anti-predatory lending bill since even a strengthened Federal Reserve amendment of Regulation Z is unlikely to be as comprehensive and strong as needed in covering all parts of the lending industry.

Thank you for this opportunity to provide comments on this important matter.

Sincerely,

Bernie Mazyck
President and CEO
S.C. Association of CDCs

cc:	South Carolina Congressional Delegation
National Community Reinvestment Coalition