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December 23, 2009

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

Re: TILA Proposed Rule Comment (Docket R-1366).

To Whom It May Concern:

Flagstar Bank, FSB (Flagstar) appreciates consideration of our comments regarding the recently published proposed rule for Truth in Lending. Flagstar Bank is a subsidiary of Flagstar Bancorp (NYSE: FBC), which, with \$14.8 billion in total assets as of September 30, 2009, is the largest savings bank headquartered in the Midwest and the largest financial institution headquartered in Michigan. At September 30, 2009, Flagstar operated 176 banking centers in Michigan, Indiana and Georgia and 42 home loan centers in 18 states. The Bank originates loans nationwide and is one of the leading originators of residential mortgage loans.

Given the havoc the credit crisis has wreaked on borrowers, lenders and the economy, we certainly understand the need to take action at this time. We acknowledge that it is critical for consumers to understand as much as possible about their loan so that they can make informed decisions.

Toward that end, we offer the following comments: In regards to the 60-day requirement for notice of rate adjustment, we believe the timing may confuse customers. They will receive a payment coupon for their current payment, while also receiving a notice that their later payments will be adjusting. We believe that this creates a risk that the borrower will pay the new adjusted amount instead of the pre-adjustment amount owed. In today's environment this is especially risky to borrowers because many payments are adjusting down. If borrowers mistakenly make the new adjusted payment instead of their current payment that is due, the result may be a delinquency and penalty to the borrower. We believe that this timing requirement should be no more than 30 days prior to payment due date so as to limit the confusion of the borrower regarding the amount they owe.

Corresponding to option payment loan statements, we support this change, and agree that it provides value for the customer. That said, we think it prudent to raise issues with the timing. By requiring that these statements be provided at least 15 days prior to the payment due date, we run into problems with some of our borrowers that may not have had their payments processed at that point in time. In today's current economic climate, it is very common for borrowers to delay making their payments as long as possible. And, where penalties are often not assessed until after the 15th of the month, many borrowers wait until the that time to make their payments.



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In a delayed payment scenario it is hard for us know which option the borrower chose for their prior payment, and therefore provide accurate information as to how the different options will affect the loan balance and property equity. We suggest that this time period be lowered closer to five days prior to payment due date. Further, we would like additional guidance on how to deal with option payment loan statements when: loans are delinquent; loss mitigation solutions are being pursued, but may not yet be finalized; loans are in bankruptcy or foreclosure.

Finally, we believe the anti-steering provision should either be removed, or the permissible transaction section be further clarified. The requirement that the loan originator have a good faith believe the borrower qualifies for the options provided creates a grey area that opens them up to the potential for unwarranted lawsuits. The term "good faith" is too subjective a standard, and has been litigated many times to far different outcomes.

Additionally, the requirement that loan originators obtain options from a significant number of creditors with which they do business may ultimately confuse borrowers. If one creditor offers the three required loans (lowest interest rate, second lowest interest rate, and lowest points and fees), but the loan originator also has to provide options from other creditors, the borrower may be inundated with options. That will hurt their ability to make an informed decision and is contrary to the purpose of the Truth in Lending Act.

Again, we appreciate the opportunity to comment on this proposal. If our letter raises any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Midbo". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Jeff Midbo
Associate General Counsel