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Comments:

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Proposal: Regulation Z - Truth in Lending  
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The interim final rule to Regulation Z, which implements the Helping Families Save Their Homes Act, provides an exception to the transfer notice where the transfer is subject to a repurchase agreement. As noted in the interpretations, this exception acknowledges the new business reality of mortgage warehouse lending whereby such secured financing is accomplished through a sale/repurchase agreement. Providing a notice to the consumer in such a situation does not truly further the underlying purpose of the Act. However, we believe that the exception is inadvertently too narrowly drawn. Although many mortgage warehouse lending transactions only involve two parties (the originator and the secured creditor), there is another common scenario that includes an additional party. Here is the typical situation. Original creditor ("Originator") originates a mortgage loan. Originator sells the mortgage loan, subject to repurchase agreement, to intermediary ("Aggregator"), which purchases loans from numerous originators and serves as a conduit for mortgage warehouse financing. Originator keeps the loan on its books. Aggregator treats the transaction as a "secured financing" for accounting purposes. Aggregator sells the bundle of mortgage loans, subject to repurchase agreement, to bank. Bank treats the transaction as a secured financing for accounting purposes. However, Aggregator does NOT record the loans on its books. Aggregator packages loans for sale on the secondary market. When package is prepared, it repurchases loans from Bank. Typically this occurs within 5 to 90 days from the origination of the loan. Normally, the transactions will occur in less than 30 days. However, there are occasional loans that may remain outstanding for up to 90 days. We would respectfully suggest that the rule should be modified so that exception (2) reads as follows: The mortgage loan is transferred to the covered person in connection with a repurchase agreement and a transferor in the chain of title that is obligated to repurchase the loan continues to recognize the loan as an asset on its own books and records. However, if the transferor does not

repurchase the mortgage loan, the acquiring party must make the disclosures required by §226.39 within 30 days after the date that the transaction is recognized as an acquisition in its books and records. In addition, the interpretation on repurchase agreements should be slightly edited to acknowledge these "chain" financing arrangements. This proposed tweak to the rules would facilitate current common secured financing arrangements and assure the continued responsible flow of credit to residential mortgages. At the same time, it would further the purpose of the Act by assuring that consumers received transfer notices only at the time of transfer to the ultimate purchaser without the confusion of interim notices that might be appropriate only for a short period of time.