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

Re: Proposed Rule, Regulation Z, Truth in Lending; Docket No. R-1417; RIN Number 7100-AD75, Ability to Repay and Minimum Mortgage Underwriting Standards

Dear Madam:

We appreciate the opportunity to comment on the proposed rulemaking ("Proposed Rule")[1] of the Board of Governors of the Federal Reserve System (the "Board") to amend Regulation Z in implementation of amendments to the Truth in Lending Act ("TILA") made by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[2] We submit these comments on behalf of one of our client banks (the "Bank") that is a full-service depository institution which, among other activities, offers a variety of mortgage loan products to satisfy the diverse credit needs of its customers. The Bank has never engaged in subprime or abusive lending practices. Because of the markets in which the Bank operates, and its diverse customer base, the Bank offers not only the traditional 30-year fixed rate conventional loan, but also offers a variety of traditional adjustable rate loan products that are prudently underwritten and beneficial to customers.

[1] 76 Fed. Reg. 27390 (May 11, 2011).

[2] We acknowledge that the Consumer Financial Protection Bureau ("CFPB") will be succeeding the Board in administering TILA upon the Dodd-Frank Act's Designated Transfer Date. Although this letter references the Board's present authority, it also applies to the actions that the CFPB can and should take upon receiving its regulatory powers.

The definition of "Qualified Mortgage" and the related provisions of the rule as proposed, as a practical matter, effectively preclude prepayment fees on loans that are not traditional, fixed rate 30-year mortgages that fully amortize from the outset of the loan. As discussed further below, our suggestions are to: (1) broaden the definition of "Qualified Mortgage" to include appropriate types of loans beyond traditional 30-year fixed rate loans that fully amortize from the first payment to the last; and (2) create an exemption from the prohibition on prepayment penalties for prudently underwritten loans to prime borrowers with significant equity in the home and strong payment coverage ratios. If adopted without these suggested changes, the proposed rule will limit the ability of a consumer to chose the most appropriate type of loan for that consumer, increase interest costs to consumers, and reduce the availability of home financing.

Two unspoken assumptions behind the proposed rule are that prepayment penalties are bad for consumers and that the traditional fixed rate 30-year loan is always the appropriate choice for all borrowers. As discussed below, these assumptions are not accurate.

Contrary to the premise of the proposed rule, offering consumers the option of choosing prepayment penalties in order to obtain a lower interest rate is a consumer-friendly option. The choice is similar to the choice available to borrowers to pay points up front at closing and "buy down" the interest rate on the loan. Borrowers who select loans with prepayment penalties are selecting a lower interest rate in exchange for committing to stay with the loan for a period of time before refinancing (or pay a prepayment penalty down the road if they change their minds and can find an even lower rate within the prepayment period). Limiting consumer choices by taking away the ability of a borrower to obtain a lower interest rate in exchange for selecting a prepayment penalty term in the loan does not benefit consumers or lower their costs of financing. Taking this choice away from a borrower increases the interest cost to the borrower who does not plan to repay the mortgage within the time period covered by the prepayment penalty.

A strong secondary market benefits borrowers as it allows originators of loans to offer a wide array of mortgage products including loans that originators may not be able to retain themselves due to capitalization or funding constraints. A strong secondary market is premised, however, on active buyers of loans and competitive pricing for loans. Among other things, buyers of loans consider the rate at which loans prepay or are likely to prepay in the future. Prepayment penalties, which are selected by borrowers, signal to buyers of loans that such borrowers are less likely to prepay their loans. Conversely, prepayment rates for loans without prepayment penalties are less certain and likely much higher. Buyers of loans, if they are willing to buy them at all, pay significantly less for such loans than for similar loans with prepayment penalties. As a consequence, loan originators of mortgages without prepayment penalties must either charge borrowers a higher interest rate to allow the loans to be sold at reasonable prices or not offer such loans at all. By restricting prepayment penalties, the proposed rule thus limits consumer choices and potentially increases consumer interest costs.

In recognition of the Bank's client base which demands a range of different loan terms, we believe that the Proposed Rule's blanket prohibition on prepayment penalties, which is proposed to implement Section 1414 of the Dodd-Frank Act ("Section 1414"), is unnecessarily broad, inconsistent with legislative history of the Dodd Frank Act, and ignores the beneficial aspects of prepayment penalties (and consequent lower financing costs) to home loan borrowers, as well as the diversity of these borrowers. The Proposed Rule also needlessly restricts private financing options that are necessary to replace large loan financing due to the down-sizing of the mortgage lending programs of the government sponsored enterprises. We thus believe that the Board should narrow the scope of the prohibition on prepayment penalties in the Proposed Rule by broadening the definition of "Qualified Mortgages" and more carefully tailoring the prohibitions on prepayment penalties, and also by creating exceptions from the prohibitions contained in the rule and statute for certain types of prime loan customers (particularly those with low loan-to-value ratios and high income coverage ratios) and loan products that meet the needs of those customers.

Title XIV of the Dodd-Frank Act restricts the ability of a creditor to assess prepayment penalties in connection with a residential mortgage loan. The prohibitions limit the instances in which a creditor may charge a prepayment penalty solely to transactions involving residential mortgage loans that fit the definition of a Qualified Mortgage.[3] Specifically, Section 1414 prohibits a residential mortgage loan that is not a

[3] Title XIV defines the characteristics of Qualified Mortgages that are permitted to contain prepayment penalty terms. Section 1412 of the Dodd-Frank Act generally defines a Qualified Mortgage as a residential mortgage loan with the following characteristics:

- regular periodic payments that would not result in an increase of the principal balance or allow the consumer to defer repayment of principal;
- terms that do not result in a balloon payment;
- verified and documented borrower income and financial resources;
- fully amortizing and taking into account all applicable taxes, insurance, and assessments;

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Qualified Mortgage from containing terms under which a consumer must pay a prepayment penalty for paying all or part of the principal after the loan is consummated.[4] Further, Section 1414 limits the types of Qualified Mortgages that may contain prepayment penalty terms by excluding, among others, mortgages with adjustable rates, including mortgages with initial fixed rates that extend past the period of time covered by prepayment penalties. Through the Proposed Rule, the Board seeks to implement various sections of Title XIV of the Dodd-Frank Act, such as Section 1412, which defines the term "Qualified Mortgage" to exclude transactions that allow a consumer to defer repayment of principal.[5] The Proposed Rule also implements Section 1414 by prohibiting a mortgage from containing a prepayment penalty provision unless the loan "[h]as an annual percentage rate that cannot increase after consummation."[6] We believe that the Board should limit the scope of the Proposed Rule's prohibitions in favor of more tailored prohibitions that are consistent with the purpose and legislative intent of Title XIV, and that allow flexibility for those borrowers who can handle it.

In particular, we believe it would benefit borrowers to permit prepayment penalties for adjustable rate mortgages where there is a low loan-to-value ratio and a high income coverage ratio. Such an exception would make credit more readily available at a lower cost for borrowers whose loans can meet these criteria. Moreover, such an exception could benefit the economy by making financing available in this part of the market at a time when the government sponsored enterprises are having to withdraw from purchasing and insuring these loans to the extent that the principal amounts exceed the shrinking loan limits for high cost areas.

I. The language of the Proposed Rule is unnecessarily broad, to the detriment of the regulation's purpose.

Because of the proposed blanket prohibition on prepayment penalties, the Proposed Rule unnecessarily restricts the types and features of mortgages that are not the

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- complies with ability to repay standards to be established by the Board;
- total points and fees that do not exceed 3 percent of the total loan amount; and terms that do not extend longer than 30 years. *See* 15 U.S.C. § 1639c(b)(2)(A).

[4] 15 U.S.C. § 1639c(c)(1).

[5] 76 Fed. Reg. 27484.

[6] 76 Fed. Reg. 27486.

target of Title XIV of the Dodd-Frank Act. As borrowers determine the mortgage loan characteristics that best fit their needs, lenders such as the Bank offer a diverse selection of mortgage products that include:

- an adjustable rate mortgage in which the interest rate remains fixed for three, five, seven or ten years, and then becomes adjustable for subsequent years;
- an adjustable rate mortgage with lower margins providing a cheaper borrowing alternative for borrowers with significant equity in their homes and strong payment ratios;
- a mortgage with a preferred rate discount for as long as the borrower maintains a direct deposit account relationship with the Bank or an automatic debit payment to make payments on the loan from a deposit account at the Bank; and
- a 30-year mortgage on which interest is fully paid currently (*e.g.* it is not a negative amortization loan) in which the repayment of principal is deferred for a period of years, but after the expiration of that period, the mortgage fully amortizes over the remaining term of the mortgage through borrower payments.

Prepayment penalties within the terms of each of these types of mortgages are prohibited under the language of the Proposed Rule. These four types of loans are captured within the broad scope of the Proposed Rule that all mortgages must have annual percentage rates that cannot increase after consummation, and payment terms that provide no deferment of principal. Yet, none of these four types of mortgages has teaser rates, balloon payments, or other features that were the mortgage characteristics that harmed the subprime market and became the target of Title XIV of the Dodd-Frank Act.

The language of the Proposed Rule is too broad, and should be narrowed to restrict only prepayment penalties associated with the true targets of the prohibition: mortgages with teaser rates and/or balloon payments. First, the prepayment penalty prohibition on adjustable rate mortgages should be limited only to mortgages with annual percentage rates that can increase during the first three years after consummation, and the prohibition should exclude mortgages with rate increases caused by the expiration of preferred rate discounts. Since Section 1414 prohibits all prepayment penalties after the first three years of the consummation of a mortgage, there is no regulatory benefit to restricting prepayment penalties of mortgages that have fixed rates during their first three years, even if the rates on these mortgages may increase after three years. Also, mortgages with rates that may increase due to the expiration of a preferred rate discount that is based on the customer maintaining a direct deposit relationship or an automatic debit payment arrangement for the loan should be permitted to have prepayment penalties because these mortgages are intended to be fixed rate mortgage products. The potential increase in the rate of these mortgage products is not due to the expiration of an introductory rate period, instead the rate would only increase to another fixed rate upon the borrower's termination of a direct deposit account relationship or an automatic payment plan, which is fully under the control of the borrower, and is not influenced or controlled by the lender.

Second, the Proposed Rule's prepayment penalty prohibition on mortgages that allow a borrower to defer the repayment of principal should be limited to mortgages that allow for negative amortization, or that do not become fully amortizing during the life of the loan. As noted above, the Bank provides a mortgage product that defers the repayment of principal for ten years, but fully amortizes for the remaining duration of the mortgage. This mortgage product is not an interest-only mortgage that provides for a large balloon payment at the expiration of the ten year period. Therefore, the Bank's mortgage product is outside of the intended scope of the prepayment penalty prohibition, and permitting prepayment penalties for these loans would not affect the regulation's purpose of preventing borrowers from being trapped in mortgages with potentially unbearable increases in payments.

Accordingly, we suggest that either the definition of "Qualified Mortgage" be broadened to include mortgages that include the terms described above and other similarly prudent and consumer-friendly provisions that are not the types of abusive terms at which the legislation was directed, or exemptions be included within the rule that specifically permit prepayment penalties to be charged on loans with these types of terms which benefit customers.

II. The coverage of the Proposed Rule captures borrowers whose transactions are beyond the intent of Title XIV of the Dodd-Frank Act

In addition to unnecessarily restricting certain mortgage products, the Proposed Rule also limits the choices of prime borrowers who are not the intended subjects of the prepayment penalty prohibitions. As discussed above, allowing a borrower to choose a loan with a prepayment penalty in exchange for a lower interest rate benefits the borrower. Allowing a prime borrower who wants a loan that is not a traditional 30-year fixed rate loan also to choose a prepayment penalty in exchange for a lower interest rate on that other type of loan also benefits the borrower. The Proposed Rule sacrifices the choices of prime borrowers in order to impose a "one size fits all" approach that is only really fitting to the subprime market. The Bank serves many prime borrowers and provides a diverse selection of mortgage products that cater to these borrowers' informed choices. These sophisticated borrowers appreciate the option to choose a loan with prepayment payment penalty terms because they understand and can afford the risk of the product, while benefitting from a corresponding lower interest rate. We believe that providing an exception from the prohibition for these borrowers would achieve the aim of Title XIV of the Dodd-Frank Act, reduce the costs of borrowing, and fill the void that will occur by the shrinking loan limits offered by the government sponsored enterprises.

a. The legislative history of Title XIV of the Dodd-Frank Act displays an intent to protect subprime borrowers.

The legislative history of Title XIV of the Dodd-Frank Act suggests that the U.S. House of Representatives intended the prepayment penalty prohibition of Section 1414 to directly address concerns within the subprime lending market, not the overall mortgage market or specifically, the prime lending market. The U.S. Congress created limited legislative history on Title XIV of the Dodd-Frank Act through a committee report in connection with a bill that precedes the legislation.[7] However, one of the stated legislative goals of Title XIV was to prohibit subprime payment option adjustable rate mortgages.[8] These products and their prepayment penalty terms were identified as a means by which many creditors trapped subprime borrowers into loans with teaser interest rates that would expire and reset to a higher adjusted rate.[9] According to the House Committee on Financial Services:

[7] The U.S. House initially passed Title XIV on May 7, 2009 as a bill, H.R. 1728, which was separate from the other titles of the Dodd-Frank Act, and based upon a 2007 bill passed by the U.S. House, H.R. 3915. The U.S. Senate later incorporated H.R. 1728 into the Dodd-Frank Act, with little change to the provisions as passed by the U.S. House in 2009. In connection with the passage of H.R. 1728, the House Committee on Financial Services drafted a committee report describing the intent of the bill.

[8] H.R. Rep. No. 111-94 at 50 (May 4, 2009).

[9] *See id.*

> Many of these [subprime adjustable rate mortgages] had prepayment penalties that may extend beyond the low initial payment period. When these loans reset, consumers may face penalties for refinancing or have a very short time in which to refinance. Prepayment penalties can, however, sometimes provide consumers with lower interest rates because they provide a more stable revenue stream and thus increase the value of the loan on the secondary market.[10]

Thus, the legislative history describes the gravity of the problem of prepayment penalties in certain contexts, while also acknowledging their cost effective benefits in other more appropriate contexts. In light of Congress' intent, there is no indication that the prepayment penalty prohibition of Section 1414 is aimed at prime, sophisticated borrowers who obtain conservatively underwritten mortgages with prepayment penalties that reduce the financing costs to the borrower through a lower interest rate. Therefore, revising the proposed prohibition to provide an exception for loans to prime borrowers on loans with appropriate loan-to-value and income coverage ratios would protect these borrowers' choices while also reducing the risk of continuing to allow the use of prepayment penalties on more vulnerable subprime borrowers.

b. Prepayment penalties have cost-saving benefits to certain borrowers.

Indeed, while prepayment penalties could trap a subprime borrower within a predatory adjustable rate mortgage, prepayment penalties can have a beneficial effect for most other borrowers. Within the prime market, a prepayment penalty is an option that borrowers choose in order to obtain interest rates that are lower than loans without such penalties. The robust mortgage loan options of a competitive marketplace ensure that prime borrowers can conduct cost-benefit analyses to weigh the cost of a potential penalty against the benefit of a reduced interest rate. If a prime borrower chooses a prepayment penalty as the most beneficial option, then that borrower has determined that a lower interest rate maximizes cost-savings.

[10] *Id.* at 51.

The Bank's experience is that certain borrowers choose loan terms containing prepayment penalties and a lower interest rate as the option that best fits their needs. Borrowers have different income streams, ratios of disposable income-to-monthly payment, down-payment amounts, loan-to-value ratios, credit profiles, amounts of experience as a mortgage borrower, and loan maturity goals. Certain borrowers prefer an adjustable rate and prepayment penalty terms that result in a lower interest rate because it is beneficial and cost effective to them.

For example, a 55-year old borrower who plans to sell a home in ten to fifteen years, has a 50% loan to value ratio as a result of built up equity in a home, much experience with mortgages, and a high ratio of income to monthly payments, likely does not need (or want) a 30-year fixed rate mortgage. This borrower would seek a loan with a shorter horizon, such as a 15-year mortgage, because such a loan has a lower interest rate and payment than a 30-year fixed rate mortgage. This borrower also would have the experience and the financial strength to seek an alternative form of mortgage financing, such as a loan with an adjustable rate, and prepayment penalty terms. The borrower would use such options to craft a financing structure that provided the lowest overall costs. His income stream, as well as his equity in the property, would provide a protective cushion against higher monthly payments if the rate adjusts upward.

Conversely, a 28-year old first-time home buyer with two young children, a very small down-payment, a high loan-to-value ratio, and relatively low income to monthly payment ratio would find a traditional 30-year fixed rate mortgage, with an expectation of being in the home for many years, to be a more appropriate product. This traditional mortgage would allow the younger borrower to expect a stable and lengthy amortization schedule in exchange for a fixed interest rate that is typically higher than the rate of shorter and more variable mortgage options. The Proposed Rule should not cater only to the needs of the 28-year old borrower, while ignoring the needs of the 55-year old borrower. Yet the Proposed Rule implements a "one size fits all" approach that damages the efficiency of the prime mortgage market. An exception for prime borrowers from the Proposed Rule empowers these borrowers to determine their own optimal mortgage solution.

Allowing prime borrowers to choose the benefits of prepayment penalty terms would also strengthen the fragile and shrinking mortgage industry. The purpose of a prepayment penalty is to stabilize the cash flows and life of a portfolio of mortgage loans and to hedge the risk that the mortgage loans will be refinanced.

A lender can do one of two things after it makes a mortgage loan. It can hold the mortgage loan on its balance sheet or it can sell the loan in the secondary market. When a lender holds mortgage loans on its balance sheet, it is better able to match fund the loan portfolio through deposits or other borrowings when the pool of loans has a more predictable life and payment characteristics. Loan terms with prepayment penalties lengthen the life of a portfolio of mortgage loans and make the payment streams from the portfolio more stable and the balances that need to be funded at a given point in time more predictable. This improves the ability of the lender to match funding to the life, size and payment stream of the loan portfolio, which reduces the cost of financing the portfolio and increases the amount of credit available to the lender to make additional mortgage loans. This in turn benefits consumers by decreasing the interest costs to borrowers from the lender and increasing the availability of mortgage credit from the lender.

Mortgage loans are also securitized and sold on the secondary mortgage market by lenders. Investors in these mortgage-backed securities will only provide funding if they can reasonably expect stable cash flows and life from the pool of mortgages that underlie the securities. Early refinancing of the mortgage loans disrupts the stability of the pool and increases the uncertainty felt by investors. Through prepayment penalty terms, investors are more willing to fund the securitization of pools of mortgages, and lenders can supply these loans from their portfolios. Lenders are also able to offer more loans to consumers at lower interest rates, since demand from secondary mortgage investors ensures that the loans can be sold from the lenders' portfolios. Thus, prepayment penalty terms help to reduce interest rates and increase the supply of mortgages, two benefits that can revitalize depressed mortgage markets.

c. The Proposed Rule is based upon an uncertain foundation of government sponsored enterprises.

We also note that during a period in which the value and future of government sponsored enterprises are under intense legislative scrutiny, the Proposed Rule acts to promote only the types of loans that these entities traditionally insured. Indeed, the existence and pricing of the traditional 30-year mortgage is based in large part on government sponsored enterprises such as Fannie Mae and Freddie Mac, and government guaranteed enterprises such as Ginnie Mae. The provisions of Title XIV of the Dodd-Frank Act were based upon legislative proposals that pre-date the 2008 financial crisis and the current situation of Fannie Mae and Freddie Mac.[11] Going forward, the status of those entities and the programs that they administer are subject to some uncertainty. There has been recent press coverage on the shrinking size of Fannie Mae and Freddie Mac conforming loan limitations and the impact of this trend on home prices.[12] It is particularly likely that these government sponsored enterprises will continue to pull back loan limitations. This withdrawal leaves a substantial need for individual borrowers and for the economy as a whole for other forms of financing to fill this need. By revising the proposal to allow for sensible and economically appropriate substitutes to the traditional 30-year mortgage, the Board would allow for the continuance of alternative financing arrangements at a time when the government's ability to support traditional 30-year mortgages is limited.

d. TILA permits the Board to provide less coverage for transactions in which regulatory protection is not necessary.

TILA contains multiple provisions that support the Board providing an exception for qualified, prime borrowers. First, imposing a blanket prohibition on prepayment penalties for adjustable rate mortgages made to prime borrowers would not be necessary to carry out the purposes of TILA, in accordance with 15 U.S.C. § 1603(5). As noted above, the Dodd-Frank Act focused TILA's purposes on subprime borrowers. Within this context, the Proposed Rule's prepayment prohibitions accomplish all of TILA's purposes, to provide meaningful disclosure of terms, avoid the uniformed use of credit, and to protect the consumer against inaccurate and unfair credit practices. Prime, sophisticated borrowers, however, are often experienced, knowledgeable, and likely to be informed about the tradeoffs of obtaining a mortgage with a prepayment penalty provision versus not obtaining a mortgage with a prepayment penalty provision. These borrowers would benefit from permitting prepayment penalties for adjustable rate mortgages. Permitting an exception for prime mortgage transactions continues to allow TILA's purposes to be achieved while also promoting the informed use of credit.

[11] *See* Mortgage Reform and Anti-Predatory Lending Act of 2007, H.R. 3915, 110th Cong. (2007).

[12] *See* Dina ElBoghdady & Dan Keating, *New Limits on Mortgage Size Likely to Affect High-End Home Prices in D.C. Area*, Wash. Post, Jun. 28, 2011; *CAR: Conforming Loan-limit Drop Means Higher Finance Costs*, Silicon Valley-San Jose Bus. J., Jun. 23, 2011; Brian Collins, *FHFA: GSEs Soaking Up Jumbos*, Am. Banker, Jun. 21, 2011, at 4.

Second, in accordance with 15 U.S.C. § 1604(f), a prohibition against the ability of prudent and sophisticated borrowers to agree to prepayment penalties in exchange for a lower interest rate does not provide a meaningful benefit to those consumers in the form of useful information or protection. When determining whether coverage of certain transactions provide a meaningful benefit to the consumers of those transactions, TILA requires that the Board make a determination after a consideration of specific factors that include:

- the amount of the loan and whether the disclosure provides a benefit to consumers who are parties to the transaction involving a loan of such amount;
- the extent to which the requirement complicates, hinders, or makes more expensive the credit process;
- the status of the borrower, including any related financial arrangements of the borrower, the financial sophistication of the borrower relative to the type of transaction, and the importance to the borrower of the credit, related supporting property, and coverage under TILA;
- whether the loan is secured by the principal residence of the borrower; and
- whether the exception would undermine the goal of consumer protection.[13]

Under TILA's statutory factors of consideration, the Board would have to acknowledge that the Proposed Rule's prohibition would provide a reduced benefit to prime borrowers with large loan amounts, it would not reduce the expense of the credit process for prime borrowers, and it would disregard the financial sophistication of the borrower. In addition, an exception for loans to prime borrowers would not undermine the goal of consumer protection because the TILA amendments of Section 1414 were enacted to protect subprime borrowers. Providing such an exception from the Proposed Rule would be appropriate and necessary under 15 U.S.C. § 1604(f).

Third, borrowers with a certain level of assets and income seeking loans with low loan-to-value ratios and high income coverage ratios should be permitted the choice to have an adjustable rate mortgage with prepayment penalties, in accordance with 15

[13] 15 U.S.C. § 1604(f)(2).

U.S.C. § 1604(g). The Board has the authority to permit consumers with an income greater than $200,000 and assets greater than $1 million to waive provisions of TILA.[14] TILA recognizes that regulations should be focused on borrowers in most need of the protections, while allowing financially sophisticated borrowers the freedom of informed choice. Exceptions for highly qualified and financially sophisticated persons are not uncommon. In the areas of securities and commodities regulation, exceptions similar to the one in TILA are authorized by the Securities Act of 1933,[15] the Investment Company Act[16] and the Commodity Exchange Act.[17] The regulators administering these statutes, the Securities and Exchange Commission, and the Commodity Futures Trading Commission have implemented regulations containing exceptions for investors meeting the financial thresholds authorized by legislation.[18] These agencies recognize, as the Board should, that regulatory resources should be dedicated to protecting less financially qualified investors.

For the above reasons, we request that the Board revise the Proposed Rule to remove the blanket prohibition against prepayment penalty terms for mortgages where targeted loan characteristics do not exist, or when appropriate loan-to-value and income coverage ratios are met. In its place, the Board should adopt a broader definition of "Qualified Mortgage" and implement a narrower restriction on prepayment penalties that regulates the proper mortgage type, and permits prime, and qualified borrowers, where appropriate loan-to-value and income coverage ratios are met, to decide whether or not an adjustable rate mortgage with prepayment penalty terms is in their best interest.

[14] 15 U.S.C. § 1604(g).

[15] *See* 15 U.S.C. § 77d(5).

[16] *See* 15 U.S.C. § 80a-3(c)(7).

[17] *See* 7 U.S.C. § 1a(12).

[18] *See* Regulation D, 17 C.F.R. § 506; CFTC Rules, 17 C.F.R. § 4.7.

We thank the Board for the opportunity to share our thoughts on the Proposed Rule.

Sincerely,

David F. Freeman, Jr.