gapa
GUARANTEED ASSET
PROTECTION ALLIANCE

December 22, 2010

The Honorable Timothy F. Geithner
Secretary of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Ben S. Bernake, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitutions Avenue, NW
Washington, D.C. 20551

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

Re: Docket No. R-1390

This letter provides the Guaranteed Asset Protection Alliance's ("GAPA") comments in response to proposed Rule R-1390, Regulation Z; Truth in Lending.

Formed in 2006, GAPA is comprised of companies experienced in offering quality guaranteed asset protection waiver products (referred to in the proposed rule as "credit protection products") throughout the country. Our members include insurance companies (offering GAP products as waivers), lenders and administrative services companies who, together, bring valuable products to market in a responsible and competitive way. GAPA's mission is to preserve the viability of its industry and promote fair and equitable legislation and regulation of its members and their products thereby permitting its members to continue to offer meaningful options to consumers who choose to purchase this protection.

GAPA is writing to express its opposition to the proposed amendments to Regulation Z ("Reg Z"). As you are aware, the Truth in Lending Act ("TILA") is intended to provide meaningful disclosures so that consumers may make informed decisions regarding their use of credit. As such, the purpose of disclosures should be to provide factual and meaningful information in a neutral manner such that a consumer makes an informed decision after a fair evaluation by that consumer, to purchase, or decline to purchase, a particular product. Several

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of the disclosures as proposed by this rule amendment appear biased and arguably inaccurate and therefore are potentially misleading to consumers.

For example, proposed §226.4(d)(1)(i)(D)(1) states that "if the consumer already has enough insurance or savings to pay off or make payments on the debt if a covered event occurs, the consumer may not need the product." A more neutral and informative disclosure would simply read that "when evaluating the benefit of this Product, the consumer should consider their other insurance policies or their savings." Another example would be §226.4(d)(1)(i)(D)(2) which states that "other types of insurance can give the consumer similar benefits and are often less expensive." It is overly broad, negative, and potentially misleading to suggest that insurance products are often less expensive and generally available. The cost of insurance products varies greatly depending on location and other factors and suggesting that it may be less expensive is overly broad and possibly misleading. In contrast, there is no negative connotation to a disclosure that simply states "the consumer may be able to purchase an insurance product providing similar coverage." It is also misleading to wholly suggest that similar insurance products are available when the availability of such products may be questionable.

Furthermore, the method in which these disclosures were developed causes grave concern. The record associated with this rule development shows that the proposed disclosures underwent repeated revisions until all consumers who read the proposed disclosures rejected the product. This strongly suggests that the disclosures are crafted with the specific intent of having consumers not purchase the product. TILA's goal is to provide accurate unbiased information so that consumers can make informed decisions. The goal of this process should not be to develop a series of disclosures aimed at ensuring that no one would purchase the product to which they apply.

In addition to the content of the disclosures, the proposed rule dictates that the disclosure be similar in format and headings to two provided example forms (Forms F-16(A) and H-17(A)). These proposed forms are problematic in that the headings are negatively suggestive and the format of the form fails to consider the myriad of state regulations that must also be met by most forms. For instance, the form essentially begins with the phrase "STOP". This word is the universal warning of impending danger and its use implies that to continue is to do so with risk. Instead, the form should simply highlight a suggestion to read it carefully in order to understand the pertinent benefits. Also, the proposed rule fails to account for the state based regulatory disclosures applicable to this product and the impact those disclosures will have on the clarity, style, and length of this form.

One last item of note is the inapplicability of the age and employment eligibility guidelines introduced in the proposed rule. These two items are simply not applicable to GAP Waiver. Age and employment are not factors used in determining whether someone qualifies to purchase the waiver and the inclusion of this concept on the waiver form is misleading.

Based upon the above, GAPA urges The Federal Reserve Board to withdraw the proposed rule, or alternatively to modify the proposed form and disclosures in an attempt to better meet the mandate as set forth by the Truth in Lending Act. Thank you for the opportunity to provide you our comments. If you have any questions regarding these comments, please contact me at the number listed below.

Sincerely,

Matthew A. Nowels
Assistant Executive Director
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