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December 23, 2010

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Sent Via Email: regs.comments@federalreserve.gov ["FRB Docket No. R-1390"]

Re: **Withdrawal Request of the Proposed Truth in Lending Act Mortgage Regulations, FRB Docket No. R-1390**

Dear Board of Governors:

I write this letter on behalf of The Legal Aid Society to respectfully request that the Board protect the right of rescission, one of the few tools available to preserve homeownership. We therefore urge the Board to withdraw the Truth in Lending Act (TILA) mortgage regulations proposed in FRB docket No. R-1390.

The Legal Aid Society, the oldest and largest provider of legal assistance for low income families and individuals in the United States, serves residents throughout the City of New York with comprehensive legal assistance in housing, public assistance and other civil areas of primary concern to low income families and individuals.

During the past decade, we have assisted countless low income homeowners facing predatory lending practices and foreclosure. In our experience, the extended right to rescind an abusive mortgage refinance loan has been the single most effective tool that homeowners have to remedy predatory and abusive lending practices and save their homes from foreclosure. Changing the rules governing rescission would deprive borrowers of this critical remedy, reduce compliance by creditors, would contravene the intent of Congress, and only exacerbate an already dire foreclosure crisis.

TILA specifically provides that if the material disclosures about the costs and terms of the loan are improperly made, the borrower has an extended right to rescind the transaction. Importantly, rescission voids the security interest – it does not eliminate the note obligation. However, the automatic voiding of the lien is critical to halt foreclosures and allow the homeowner to secure financing to tender the balance due under the note.

The changes as proposed by the Board would invert the statutory ordering of rescission as set forth in 15 U.S.C. § 1635(b) by requiring the homeowner to tender before

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the creditor releases the lien. Most homeowners do not have the ability to tender back the balance due under the note in one lump sum. Even refinancing of the tender amount is virtually impossible without the release of the security interest. Many lenders will not even consider an application for refinancing while the home is in foreclosure.

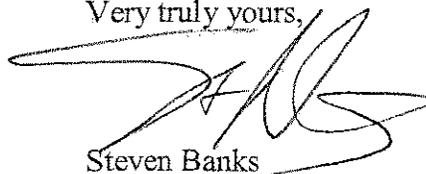
The proposed regulation would substantially deprive homeowners of leverage in negotiating alternative forms of tender, particularly loan modifications. If the security interest is not considered void first, then there would be little or no incentive for lenders to negotiate. Without being able to obtain alternative financing borrowers would be unable to exercise their statutory right to rescind.

The extended right of rescission not only can save homes but is a critical tool to enforce the strict disclosure requirements of the Truth in Lending Act. Disclosure of the real terms of the transaction remains one way to ensure some balance between the parties to a mortgage transaction. If even these disclosure requirements are undermined, most homeowners will not be able to avoid the pitfalls of the mortgage market.

The Board's proposed rule contravenes the clear order of rescission events set out by Congress in passing the Truth in Lending Act. It could not have been the intent of Congress to leave home owners with no real remedy when lenders violate the most fundamental federal protection provided for consumers in mortgage lending transactions. If the proposed rule is passed, it would cause great harm to homeowners and communities, and make lenders less accountable for abusive practices. For these reasons, we strongly urge the Board of Governors of the Federal Reserve to withdraw the proposed mortgage regulations in FRB Docket No. R-1390.

Thank you for this opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Banks', written over a horizontal line.

Steven Banks
Attorney-in-Chief