League of Southeastern
Credit Unions

July 22, 2011

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

Re: Proposed "Ability to Repay" Mortgage Lending Rules / Docket No. R-1417

Dear Ms. Johnson,

On behalf of League of Southeastern Credit Unions, I am pleased to have this opportunity to comment on the proposed rules to implement mortgage underwriting standards as stated in Title XIV of the Dodd-Frank Act. Encouraging improved underwriting standards and instilling the expectation of quality in loan securitizations are goals we can appreciate, respect and support. By way of background, the League of Southeastern Credit Unions (LSCU) represents the interests of more than 300 credit unions throughout Alabama and Florida serving the financial needs of more than 6 million members.

While we support efforts to improve current underwriting activities, LSCU is opposed to the current rules as proposed; given the concerns outlined below and harm we believe they will ultimately do to the communities served by our affiliate credit unions.

Unlike other financial services providers, credit unions have always put the interests of members first, consistently applying commonsense underwriting methods while attaining a record of superior credit portfolio performance. Because we approach this issue with a degree of credibility unavailable from banks and other institutions, it is our belief that the proposed rules are unnecessarily narrow and will ultimately penalize those very credit unions that, during the height of abusive lending practices and lax underwriting, stayed true to the objectives Dodd-Frank is now attempting to legislate.

Although the majority of our member credit unions loans are either held in portfolio or, ultimately purchased by a government sponsored entity, which the proposed rules exempt from the risk-retention requirement, the mortgage rules as currently proposed raise troubling future prospects for our credit unions in the southeast and those across the country.

ALABAMA OFFICE: 22 Inverness Center Parkway, Suite 200, Birmingham AL 35242 | PO Box 380428, Birmingham AL 35238 | 205.991.9710
FLORIDA OFFICE: 3773 Commonwealth Boulevard, Tallahassee FL 32303 | PO Box 3108, Tallahassee FL 32315 | 850.576.8171
866.231.0545
www.lscu.coop

Despite the demonstrated ability of credit unions to originate high loan-to-value (LTV) loans in a safe and responsible manner, the proposed rules could force our credit unions to rely on a select group of large banks with sufficient resources to hold the capital associated with non-compliant mortgages. The expense of this capital charge will certainly be passed on to the credit union and ultimately our members, probably at a price well in excess of the actual cost. The market power these rules grant to a few select financial institutions (undoubtedly for-profit banks) clearly raises disturbing issues of unfair advantage and potential opportunities for price manipulation among those chosen. Both prospects would be detrimental to credit unions and consumers.

Another troubling facet of the proposal, compounded by the narrowly drawn rules, is the exemption of FHA-insured loans. Based on the manner in which the rules were drafted, FHA immediately becomes a favored channel for any loan in excess of 80% under the revised government sponsored entity structure. Given the more complex origination and servicing requirements, and limited pricing benefit for borrowers making larger down payments or having standard credit profiles, credit unions have not traditionally built a significant FHA lending capacity. Again, credit unions will surely find themselves at a competitive disadvantage.

We believe credit union members are best served by the use of conventional loans with mortgage insurance (MI). Members making down payments of 5% or more will typically benefit from lower monthly payments with a loan insured by private mortgage insurer rather than relying on FHA. Given the dominance of a select group of institutions in aggregating and servicing FHA loans, the proposed rules once again set the stage for surrendering greater control of residential lending to an exclusive group of banks, to the disadvantage of our affiliate credit unions and their members. We do not support this outcome.

Another area of lending that appears to fit within the mandate of Dodd-Frank is that of home equity lines of credit (HELOC). However, these popular lending products are noticeably absent because they have been specifically excluded from the proposed rules. § 226.43(a) of the act excludes HELOCs from coverage under the proposal. We believe this to be an oversight in need of correction. A failure to address this very lucrative loan product could lead to a lowering of standards and abuse among other financial service providers and result in losses like those that helped contribute to recent financial failures. Including HELOCs within the scope of the revised act will serve to reduce the risk inherent in these credits among all institutions.

It is undeniable that the historical strength of credit unions' risk management practices and responsible approach to high-LTV lending support a rule that is more broadly drawn and cognizant of lending realities. Careful review of credit union practices during the boom years reveal the industry's superior loan performance due to conscientious adherence to underwriting standards and commitment to the members' best interests.

In developing the proposed rule, borrower interests as well as the long-term health of the residential real estate markets are at stake. Additionally, since this is ultimately a revision to the Truth-In-Lending Act (TILA) as implemented by Regulation Z, it is worth remembering that effective July 21st rulemaking authority for TILA will be transferred to the Consumer Financial Protection Bureau (CFPB). With this event the rulemaking responsibility for this proposal will rest with the CFPB rather than the Board. The concern that has not been addressed to our satisfaction is that of the CFPB viewing this proposal in an entirely different light and ultimately finalizing a very different rule than the one proposed here. The League of Southeastern Credit Unions urges you to revisit the proposed rules and consider them in light of our comments. We believe that it is critical that the proposal, once adopted, promotes fair competition among all financial institutions and programs, avoiding inappropriate advantage such as that which the proposal now extends to FHA, to the exclusion of other proven structures and to the ultimate detriment of credit union members across the nation. Properly defined and implemented, revised mortgage lending rules will benefit the American housing market for years to come.

At this crucial time in a very difficult economic climate, it's important that the rules governing mortgage lending are fully adequate to withstand the challenges that are sure to follow as our nation continues to recover. This can best be assured by legislating to ensure the opportunity to compete in the marketplace.

Sincerely,

Patrick La Pine
President & CEO