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July 22, 2011

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

**Re: Regulation Z Ability to Repay Comment (Docket No. R-1417).**

Dear Ms. Johnson,

Flagstar Bank, FSB (Flagstar) appreciates consideration of our comments, regarding the recently published proposed rule on the ability to repay requirement. Flagstar Bank is a subsidiary of Flagstar Bancorp (NYSE: FBC), which, with \$13.6 billion in total assets, is the largest savings bank headquartered in the Midwest and the largest financial institution headquartered in Michigan. Flagstar operates 162 banking centers in Michigan, Indiana and Georgia and 27 home loan centers in 13 states. Flagstar originates loans nationwide and is one of the leading originators of residential mortgage loans.

Flagstar acknowledges that it is critical for loans to be made in a responsible manner so as to protect homeowners and also to prevent a repeat of the recent issues in the housing market. We agree that a clear ability to repay standard is a good step in that direction. Toward that end, we offer the following comments.

First, we offer our support for qualified mortgage alternative one. It is the less ambiguous of the two alternatives and provides far more clarity for safety and compliance purposes. Alternative two references credit history, debt-to-income ratio and current obligations, but doesn't specify what metrics should be used when measuring these pieces of information. We believe the greater clarity in alternative one allows creditors to understand the rules of road. That understanding will help properly measure consumers' ability to repay loans appropriately, which accomplishes the goal of this rule.

Second, if the final rule does include alternative two, we believe that it should be given safe harbor treatment instead of a presumption of compliance. This alternative includes all the requirements of alternative one plus additional ability to repay requirements. It only stands to reason that because this has additional scrutiny on the ability to repay compared to alternative one, and alternative one has the greater protection of the safe harbor, this alternative should also have that protection. As it is proposed, it is doing more for measuring the consumer's ability to repay while not affording as much protection to the creditor performing that measurement.



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Finally, we think the qualified mortgage points and fees limit needs to be removed from the final rule, or if it is included in the final rule, it should be increased. There is no evidence that points and fees test has any relation to repayment ability. As such, it doesn't support the aim of this rule and will only result in restricting credit options for borrowers with loan sizes under \$200,000. We understand there is a carve-out for low loan amounts, but the proposed limit is far too low to preclude the restriction of credit for most borrowers at or close to average loan sizes.

If the points and fees requirement is included in the final rule, we believe the limit should be increased. There are no laws or industry requirements with limits close to 3%. We don't believe this has been studied in sufficient detail to allow for the consequences of this change to be thoroughly understood. Leaving this limit as it is proposed will only result in restricting many consumers' ability to obtain credit because there are far too many costs included in this calculation, which will make it difficult for originators to recoup their costs and, therefore, discourage them from originating loans of this dollar amount.

Again, we appreciate the opportunity to comment on this proposal. If our letter raises any questions, please feel free to contact me.

Sincerely,

Michele K. Spear  
Attorney at Law