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July 20, 2011

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

RE: Regulation Z Docket No. R-1417 and RIN No. 7100-AD75

Dear Ms. Johnson,

This letter is in response to the Board's request for public comment regarding Regulation Z in the proposed Ability-to-Repay rule. The California Association of Mortgage Professionals (CAMP) would like to offer our recommendations in the following areas of the proposed rule: (1) the 3% cap on points and fees; (2) the calculation of points and fees; (3) the small loan exemption on the points and fees cap; and (4) the safe harbor.

CAMP is a non-profit, professional trade association of more than 1,700 licensed mortgage brokers and affiliated service providers across California. The Association serves as a forum for financial education, community outreach, innovation, networking, legislative and regulatory advocacy, and it provides benefits and public relations for its membership. We are dedicated to the highest standards of professional and ethical conduct and committed to lending integrity, consumer protection and the preservation of maximum reasonable access to the American dream of homeownership.

CAMP Loan Originators volunteer, serve and work in the communities. We are small business owners that play an important role in the local marketplace to foster positive competition in order to ensure that the consumer receives the best service at that lowest combination of rates and fees.

CAMP is supportive of the Board's efforts to implement the Ability-to-Repay rule as directed by the Dodd-Frank Wall Street Reform and Consumer Protection Act. However, CAMP has several recommendations to improve the rule that will minimize unintended consequences while still protecting consumers and adhering to the intent of Congress.

3% Cap on Point and Fees

Section 1412(b)(2)(A)(vii) of the Dodd-Frank Act prescribed a 3% cap on points and fees to be part of the definition of a Qualified Mortgage (QM). However, Section 1412(b)(3)(B)(i) states that, "*The Board may prescribe regulations that revise, add*

to, or subtract from the criteria that define a qualified mortgage upon a finding that such regulations are necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section..."

The Board's proposed QM includes the 3% cap on points and fees. CAMP strongly believes that a cap on points and fees is not a proper test to determine a borrower's ability-to-repay and should be removed from the definition of the QM. CAMP suggests instead that the QM Alternative 1 at minimum include the debt-to-income (DTI) ratio and credit history standards from the General Ability-to-Repay Standard (GARS). A borrower's DTI ratio and credit history are substantially better standards to assess a borrower's ability-to-repay. Additionally, the DTI ratio takes into account points and fees when financed into the loan.

Calculation of Points and Fees

The proposed method of calculating points and fees for the QM does not treat mortgage brokers and creditors/banks equally. A mortgage broker must include both the broker and loan officer's compensation in connection with the loan. However, a bank only needs to include the cost of the internal loan officer's compensation in connection with the loan. The bank does not include its internal compensation on the loan.

This is a significant disadvantage for mortgage brokerage firms competing with retail banks. CAMP asks the Board to amend the points and fees calculation to ensure that mortgage brokers and banks are treated equally under the law. CAMP suggests the Board amend the rule by removing a broker's compensation from the point and fees calculation. Another option would be to increase the 3% cap on loans originated through a broker to 5%. If this change is not made, both brokers and consumers will be harmed.

The attached "Points and Fees Illustration" shows that a \$150,000 loan with an equal interest rate will cost a borrower the same at closing and throughout the life of the loan. However, the calculation of the broker's points and fees will be \$4,695 and fail the 3% cap, while the calculation of the bank's points and fees will be \$2,445 and under the cap. The calculation of the 3% cap will harm consumers by reducing competition between brokers and banks, resulting in higher borrowing costs and fewer options for consumers.

Small Loan Exemption

Section 1412(b)(2)(D) of the Dodd-Frank Act directs the Board to provide exemptions to the 3% cap on smaller loans to reduce the potential impact on credit availability. The proposed rule provides two options that both increase the 3% cap on a sliding scale beginning at \$75,000.

CAMP recommends the Board increase the small loan exemption to \$175,000. The attached "Points and Fees Illustration" shows that the \$75,000 threshold is too low and will drive all borrowers' under \$175,000 to retail banks, ultimately limiting consumer options and forcing them into higher rate loans.

As shown in the "Points and Fees Illustration," loans below \$175,000 using the current calculation of points and fees will exceed the 3% cap, while retail banks never exceed the cap above \$75,000 and could go even lower if they were to roll the fees into the rate which a broker is unable to do.

Safe Harbor

CAMP is concerned that the Board's proposed rule includes a legal safe harbor from an ability to repay challenge for loans that meet the QM Alternative 1, while not offering (at a minimum) a comparable safe harbor for loans that meet the GARS standard. When comparing the GARS and QM, it is clear that the comprehensive underwriting criteria adopted by GARS is superior in determining ability to repay, while the QM has little to do with such, instead sacrificing underwriting standards for plain vanilla products and fee caps.

Under the current structure of the proposed GARS and QM Alternative 1, CAMP is concerned that lenders will drive consumers to the QM to get the safe harbor. CAMP is further concerned that over time, the lack of minimum underwriting standards in the QM could lead to safe harbor loans being made that a simple test comparing total income to total debts would have proven mathematically unsustainable.

A borrower's predictable failure on QM Alternative 1 loans will not be averted simply because the loan lacks certain features or was obtained below a randomly selected one-time fee cap. CAMP believes it irrational and indefensible to protect lenders of such loans while not offering equal or greater protection to lenders who choose to soundly underwrite loans under GARS.

Thank you for your consideration of our views on the Board's proposed rule on the Ability-to-Repay. We look forward to working with the Board and CFBP to help implement this rule with the best possible outcome for consumers and the housing finance system. Please contact me if you have any questions or would like additional information.

Sincerely,



Ed Craine
President
California Association of Mortgage Professionals

Points and Fees Illustration

When a loan is made, it is sold on the secondary market and generally has a premium paid for the rate secured by the borrower. This premium or price could be 103 or higher depending on the note rate. That premium is not disclosed to the consumer when the consumer obtains a loan from a banking institution. In a Brokered loan, it is. Banks can pay expenses and book profit and not have to disclose those costs and profits to the consumer. The consumer is focused on interest rate and out of pocket costs for the loan. In our comparison, we show the difference when a consumer obtains a loan through a Broker and a loan through a Bank based on the same note rate (fixed rate term).

	Broker Fee	Lender Fee										
Brokered loan												
Loan Amount			\$75,001	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000	\$250,000	\$275,000	\$300,000
Borrower Paid Origination 0% (Lender paid) Total Origination 2.25% - includes comp to Company and LO			0	0	0	0	0	0	0	0	0	0
Underwriting	x	x	\$1,687.52	\$2,250.00	\$2,812.50	\$3,375.00	\$3,937.50	\$4,500.00	\$5,062.50	\$5,625.00	\$6,187.50	\$6,750.00
Doc Prep		x	\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995
Appraisal Review		x	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150
Processing Fee	x		\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175
Admin Fee		x										
Total Points & Fees for QM test			\$3,007.52	\$3,570.00	\$4,132.50	\$4,695.00	\$5,257.50	\$5,820.00	\$6,382.50	\$6,945.00	\$7,507.50	\$8,070.00
Maximum Allowed			\$2,250.03	\$3,000.00	\$3,750.00	\$4,500.00	\$5,250.00	\$6,000.00	\$6,750.00	\$7,500.00	\$8,250.00	\$9,000.00
Meets 3% Fee Test			FAIL	FAIL	FAIL	FAIL	FAIL	PASS	PASS	PASS	PASS	PASS
Total loan fees paid by Consumer			\$1,320.00	\$1,320.00								
Banks-Retail												
Loan Amount			\$75,001	\$100,000	\$125,000	\$150,000	\$175,000	\$200,000	\$225,000	\$250,000	\$275,000	\$300,000
Borrower Paid Origination 0%			0	0	0	0	0	0	0	0	0	0
Loan Officer Compensation (.75%)	x		\$562.51	\$750.00	\$937.50	\$1,125.00	\$1,312.50	\$1,500.00	\$1,687.50	\$1,875.00	\$2,062.50	\$2,250.00
Underwriting	x		\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995	\$995
Doc Prep	x		\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150	\$150
Appraisal Review	x		\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175	\$175
Processing Fee	x											
Admin Fee		x										
Total Fees for QM test			\$1,882.51	\$2,070	\$2,258	\$2,445	\$2,633	\$2,820	\$3,008	\$3,195	\$3,383	\$3,570
Maximum Allowed			\$2,250.03	\$3,000.00	\$3,750.00	\$4,500.00	\$5,250.00	\$6,000.00	\$6,750.00	\$7,500.00	\$8,250.00	\$9,000.00
Meets 3% Fee Test			PASS	PASS								
Total loan fees paid by Consumer*			\$1,320.00	\$1,320.00								
How Banks show no fees, increase rate by .25%												
Loan Officer Compensation (.75%)	x		\$562.51	\$750.00	\$937.50	\$1,125.00	\$1,312.50	\$1,500.00	\$1,687.50	\$1,875.00	\$2,062.50	\$2,250.00
Underwriting	x		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Doc Prep	x		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Appraisal Review	x		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Processing Fee	x											
Admin Fee		x										
Total Fees for QM test			\$562.51	\$750.00	\$937.50	\$1,125.00	\$1,312.50	\$1,500.00	\$1,687.50	\$1,875.00	\$2,062.50	\$2,250.00
Maximum Allowed			\$2,250.03	\$3,000.00	\$3,750.00	\$4,500.00	\$5,250.00	\$6,000.00	\$6,750.00	\$7,500.00	\$8,250.00	\$9,000.00
Meets 3% Fee Test			PASS	PASS								
Total loan fees paid by Consumer*			\$0.00	\$0.00								
Increased Interest Expense to Consumer			\$2,855.50	\$3,807.28	\$4,759.10	\$5,710.92	\$6,662.74	\$7,614.56	\$8,566.38	\$9,518.21	\$10,470.03	\$11,421.85

* Total loan fees paid by the consumer are the sum of the underwriting, doc prep, appraisal review, processing, and admin fees.