



October 15, 2007

Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314

RE: Proposed Illustrations of Consumer Information for Subprime Mortgage Lending

Dear Ms. Rupp:

I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), in response to the National Credit Union Administration (NCUA) and the other Federal Financial Institutions Examination Council (FFIEC) regulators' (collectively, the Agencies) request for written comments regarding the Proposed Illustrations of Consumer Information for Subprime Mortgages (Proposed Illustrations).

The Proposed Illustrations relate to subprime mortgage lending and provide illustrations of the type of consumer information contemplated by the Agencies' Statement on Subprime Mortgage Lending (Subprime Statement), published by the Agencies in July, 2007. *See* Subprime Statement, 72 FR 37569 (July 10, 2007). The Subprime Statement indicates that consumers should be informed about issues relating to certain adjustable rate mortgage (ARM) products, including payment shock, prepayment penalties, balloon payments, pricing premiums for reduced documentation loans, and the borrower's responsibility for real estate taxes and insurance if not escrowed.

NAFCU believes that the Proposed Illustrations are a good source for lenders to inform consumers about issues related to subprime mortgage products. Credit unions seek to provide sound financial products that are in the best interest of their members, and already are proactively informing their members about financial products so that they can make sound decisions.

As we have stated in the past, borrowers should be fully informed of their options, including the benefits and risks associated with the products they are contemplating to obtain. Further, we believe that where regulatory guidance exists related to this matter, illustrations that will help credit unions follow such guidance is appropriate. As such, we support the adoption of the Proposed Illustrations, but also provide the specific comments below.



Use of Proposed Illustration

Credit unions and other institutions that are unable or choose not to incur costs to develop their own consumer information documents will especially benefit from the Proposed Illustrations. For these institutions and others, the Proposed Illustrations would be good tools to ensure that the institutions are providing the type of disclosures contemplated in the Subprime Statement.

While the Proposed Illustrations are welcomed guidance, NAFCU encourages the Agencies to ensure that they do not become regulations. We recognize that the Agencies state that the Proposed Illustrations are voluntary and there is no Agency requirement or expectation that institutions must use the illustrations. However, guidance issued by regulators is sometimes misunderstood to be a regulation and consequently creates unintended regulatory burden. To ensure that these illustrations are indeed treated as voluntary, NAFCU urges the Agencies to clearly communicate this fact to examiners.

Promoting Understanding

The Agencies seek comment on whether changes should be made to the Proposed Illustrations. NAFCU recommends the following specific changes.

The Proposed Illustrations, while helpful, should be clarified so that both the industry and borrowers do not make an automatic connection between all ARM products and subprime lending. To promote understanding of the products and practices in question, we recommend two actions: 1) that the Agencies change the *Federal Register* title to *Illustrations of Consumer Information for Adjustable Rate Mortgages*; and 2) that the agencies clarify that not all ARM products are sub-prime.

NAFCU believes that the two actions above will not only alleviate confusion and promote understanding, but also serve to ensure that consumers that can benefit from certain ARM products are not wrongly dissuaded even though an ARM product is best suited for their financial needs and benefit. The proposed title, *Illustrations of Consumer Information for Subprime Mortgage Lending*, unfortunately, will create an unwarranted obstacle for credit unions that seek to serve their members who need or require ARM products.

Further, in Illustration I, the tone of the disclosure throughout the illustration may confuse the consumer, and could have the unintended consequence of discouraging consumers which may greatly benefit from an ARM product. Specifically, the illustration indicates that the consumer's loan "will" have components that the Subprime Statement suggests is less desirable. For example, it states that "Your loan *will* have a balloon payment."

NAFCU suggests that the Agencies replace the definite tone that presently exists. We suggest that the Agencies use the word "may" to better reflect the products at issue. Thus, in the above stated example, the illustration would state "Your loan *may* have a balloon." Consistent



Ms. Mary F. Rupp
October 15, 2007
Page 3 of 3

with this, rather than stating that “Some specific terms of *your* ARM loan explained below”, the illustration should state “.... terms of *an* ARM loan”

Lastly, NAFCU urges Agencies to eliminate the “Prepayment Penalties” statement in Illustration I. Under the Federal Credit Union Act, natural person FCUs may not impose prepayment penalties. *See* 12 U.S.C. § 1757(5)(A)(viii). As such, inclusion of such statement in Illustration I can lead to confusion. Accordingly, NAFCU respectfully requests that the statement on prepayment penalties is removed from Illustration I.

NAFCU appreciates the opportunity to comment on the Proposed Illustrations. Should you have any questions or require additional information please call me or Tessema Tefferi, NAFCU’s Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 268.

Sincerely,



B. Dan Berger
Senior Vice President of Government Affairs
BDB/tt

