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Sent: Friday, June 21, 2002 10:31 PM
To: regs.comments@ots.treas.gov
Cc: NCRC List
Subject: Docket No. 2002-17

16A

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: Docket No. 2002-17

To Whom it May Concern:

As a member of the National Community Reinvestment Coalition, Unidos Para La Gente, strongly supports the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). Unidos Para La Gente has been involved in combating predatory lending for several years. We have repeatedly seen instances in which unscrupulous lending institutions have used prepayment penalties to trap borrowers in abusive loans. Borrowers have also faced stiff late fees associated with abusive loans. The current AMTPA regulations have facilitated the proliferation of late fees in predatory loans and prepayment penalties.

AMTPA has outlived its usefulness. Congress passed AMTPA in 1982 during a high interest rate environment in order to provide state-chartered institutions the ability to offer adjustable rate mortgages (ARMs) and other alternative mortgages. At that time, many states had outlawed ARMs. From 1983 to 1996, the Federal Home Loan Bank Board (the OTS' predecessor agency) and the OTS granted state-chartered thrifts and non-depository institutions preemption under AMTPA from state law on alternative mortgages so that they could offer ARMs. During this time period, however, the Bank Board and the OTS did not allow institutions to preempt state law on alternative mortgages that limited prepayment penalties and late fees. In 1996, the OTS inexplicably reversed course and allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages.

This single change in the OTS regulations during 1996 significantly contributed to the dramatic increase in predatory lending of the last few years. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of subprime borrowers (about 80 percent) now have prepayment penalties. In contrast, only 2 percent of prime borrowers have prepayment penalties on their loans according to Standard and Poor's. This huge difference in the application of prepayment penalties suggests that prepayment penalties trap subprime borrowers into abusive loans, and that subprime borrowers do not freely accept prepayment penalties as a means of lowering their

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interest rates.

We see many people who are victimized by the predatory lending practices we are against. Some of these are homeowners who were led to believe that the new-to-Texas home equity loans would be beneficial to them, only to discover that their homes are being repossessed when they can not make their payments.

It is most urgent that AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages be removed.

We also note that OTS could have made its proposal stronger. The AMTPA statute provides OTS with the discretion to prescribe limits on loan general terms and conditions. The OTS could have adopted a two-year limitation on prepayment penalties for the alternative mortgages issued by all the institutions it regulates including federally chartered thrifts, state-chartered thrifts and non-depository institutions. The limitation would also stipulate the maximum amount of the prepayment penalty at one percent of the loan amount. Currently, victims of predatory lending are confronted with paying about 5 percent or higher of the amount as a prepayment penalty.

Unidos Para La Gente believes that limiting prepayment penalties across the board would have achieved a greater degree of uniformity in the regulatory framework for different institutions. If the OTS does not adopt a more prescriptive approach, Unidos Para La Gente strongly urges the OTS to stick with its proposal and to resist industry calls to weaken its proposed regulatory changes.

For proposing this change to their AMTPA regulations we applaud the OTS and ask that this change be implemented as quickly as possible after the close of the public comment period.

Sincerely yours,

Mary Compton, president
Unidos Para La Gente

cc.
National Community Reinvestment Coalition

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