June 18, 2002

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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 client of the Miami Valley Fair Housing Center, Inc. (MVFHC), I strongly support the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (**AMTPA**). The Miami Valley Fair Housing Center, has been involved in combating predatory lending for several years. MVFHC staff has 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 prepayment penalties and late fees in predatory loans.

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 interest rates.

In my community, the Dayton, Ohio area, there are currently two (2) minority zip codes (45406 and 45407) where at least one out of every four houses is currently under foreclosure. Based on research conducted by the Fair Housing Center, we know that abusive subprime and predatory lending contribute largely to this unbelievably high rate of foreclosures. Prepayment penalties are a big part of the problem of predatory lending in my area.

The **OTS** correctly notes in its proposal that prepayment penalties and late fees are not integral elements of alternative mortgages. The **OTS** also reports that all states but one now allow **ARMs**, meaning that **AMTPA** is no longer needed. Instead, predatory lenders are using **AMTPA** and the existing **OTS** regulations to evade state law on alternative mortgages and prey upon unsuspecting and vulnerable borrowers. I cannot emphasize enough how urgent it is to remove **AMTPA's** preemption of state limits regarding prepayment penalties and late fees on alternative mortgages.

I do note that the **OTS** could have made its proposal stronger. The **AMTPA** statute provides **OTS** with the discretion to prescribe general limits on loan 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 loan amount as a prepayment penalty.

The Miami Valley Fair Housing Center 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, I strongly urge the **OTS** to stick with its proposal and to resist industry calls to weaken its proposed regulatory changes.

I applaud the **OTS** for proposing this change to their **AMTPA** regulations and ask the **OTS** to implement this change as quickly as possible after the close of the public comment period.

Sincerely,

Mary Stevens

cc:

Miami Valley Fair Housing Center, Inc.