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**ELIOT SHAPLEIGH**  
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June 11, 2002

Office of Thrift Supervision  
Regulation Comments  
Chief Counsel's Office  
1700 G Street, NW  
Washington, DC 20225

Attention: Docket No. 2002-17

To Whom it May Concern:

I write to express my strong support for the proposed changes to the Office of Thrift Supervision's regulations for implementing the Alternative Mortgage Transaction Parity Act (AMTPA). The people of El Paso and of Texas have experienced numerous instances in which unscrupulous lending institutions have used prepayment penalties and outrageous late fees to trap borrowers in abusive loans. This practice must stop. The current AMTPA regulations are facilitating the proliferation of these abusive penalties and allowing the perpetuation of predatory lending; therefore, these regulations must change.

AMTPA has far 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 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 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.

However, in 1996, the OTS inexplicably reversed course and allowed institutions to preempt state limits regarding prepayment penalties and late fees on alternative mortgages. This change in the OTS regulations has significantly contributed to the alarming increase in predatory lending over the last few years. Across the country, non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of subprime

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borrowers now have prepayment penalties. In contrast, only about 2 percent of prime borrowers have these abusive penalties on their loans, according to Standard and Poor's.

Additionally, in Texas, borrowers subject to abusive lending practices are finding that excessive loan fees are crippling their ability to maintain, or even achieve, financial stability. For example, one Texas woman took out an alternative mortgage loan to do necessary home repairs and was charged \$3400 in fees on the front end of the loan - just under 8 percent of the entire loan. Moreover, her loan carries a 16 percent interest, meaning that loan fees will add to over \$12,000 during the life of the 25 year loan. Before taking out this loan, the woman only owed \$6,000 on her home. This borrower's story is not unique. Across Texas, borrowers face the unjust position of having to accept exorbitant fees and penalties in order to gain access to needed capital. In communities like El Paso, where traditional lenders are not abundant and many people must turn to alternative sources for mortgage loans, the effects of these abusive lending practices permeate across the entire community, seriously impairing many hard working families. We must put an end to these abuses by changing OTS' AMTPA regulations.

The OTS correctly notes in its proposal that prepayment penalties and late fees are not integral elements of the alternative mortgages. The OTS also reports that all states but one now allow ARMs, meaning that AMTPA is not longer necessary. In fact, 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 overly emphasize how urgent it is to remove AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages.

Moreover, the OTS could have made the proposal stronger by adopting a two-year limitation on prepayment penalties for the alternative mortgages issued by all institutions that the agency regulates, including federally chartered thrifts, state-chartered thrifts and non-depository institutions. The limitation should also have stipulated the maximum amount of the prepayment penalty at one percent of the loan amount. Currently, borrowers are faced with penalties as high as 8 percent of the total loan. These levels constitute a glaring abuse.

While limiting prepayment penalties across the board would have achieved a greater degree of protection for borrowers, the current OTS proposal does move in the right direction. I strongly urge the OTS to resist industry calls to weaken proposed regulatory changes and implement these changes as quickly as possible.

Very truly yours,



Eliot Shapleigh

cc: Senator Rodney Ellis  
Senator Royce West