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

RE: Docket No. 2002-17 (Alternative Mortgage Transaction Parity Act)

Pursuant to notice published in the *Federal Register* of April 25, 2002, the American Council of State Savings Supervisors (ACSSS) takes this opportunity to submit the following comments on the Notice of Proposed Rulemaking regarding the above-captioned matter.

ACSSS is the national trade association for the state public officials charged with the responsibility for supervising state-chartered savings associations and savings banks. As such, we have a vital interest in this matter from the standpoint of its potential impact on state-chartered savings associations. We agree with and wholeheartedly commend the Office of Thrift Supervision (OTS) for its role in the ongoing effort, occurring at both the federal and state levels, to curb abusive lending practices of any form by any type of mortgage lender.

We are very concerned, however, that the present proposal, no matter how well-intentioned, departs from certain precedents of parity in the regulation of federally- and state-chartered savings associations. Under the Alternative Mortgage Transaction Parity Act ("AMPTA"), state-chartered savings associations are treated as "state housing creditors."<sup>1</sup> Up until this point, however, this distinction has been moot due to the fact that the OTS regulations implementing AMPTA did not purport to treat state housing creditors differently than Federal Savings Banks ("FSBs") insofar as residential lending practices were concerned. Indeed, and as noted by the OTS in its preamble to the Notice of Proposed Rulemaking, in order to qualify as a state housing creditor, the covered loans must be "in conformity with regulations that would apply to a comparable federally chartered housing creditor."<sup>2</sup>

As we understand the proposed changes, however, they would not apply to FSBs insofar as prepayment and late charges are concerned. By operation of other OTS regulations, the effect of this change would likewise create a disparity between the mortgage banking subsidiaries of FSBs and those of state-chartered savings associations.<sup>3</sup>

Inasmuch as state-chartered savings associations are subject to essentially the same supervisory scheme consisting of regular examinations and consumer compliance oversight as

<sup>1</sup> 12 C.F.R. § 560.220.

<sup>2</sup> 67 *Federal Register* 20468 (April 25, 2002)

<sup>3</sup> 12 C.F.R. § 545.81(e).

FSBs, we perceive no public policy basis for such a marked departure from the way in which the AMPTA has been administered since its enactment some 20 years ago. Thus, we would suggest, in specific response to Question 3 raised in the Proposed Rulemaking that state-chartered savings associations be treated separately from "other" state housing creditors should this rulemaking proceed to final adoption. OTS is clearly vested, under 12 USC § 3803(a)(3), with discretionary authority to effectuate this policy much the same as the Comptroller of the Currency and the national Credit Union Administration have done, respectively, for national banks and federal credit unions.

We appreciate the opportunity to present these comments and ask that you contact the undersigned with respect to any follow-up questions you may have.

Sincerely,



Jay R. Stevenson  
ACSSS Chairman

Assistant Commissioner  
Office of Banks and Real Estate  
State of Illinois  
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