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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

Via Facsimile: (202) 906-6518

ATTN: Docket No. 2002-17

To Whom It May Concern:

Consumer Action, a statewide non-profit consumer education and advocacy organization serving consumers since 1971, strongly supports the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). These changes will make clear that many more borrowers are protected by California's laws regulating prepayment penalty provisions and late fees. These two loan provisions are mainstays of predatory mortgage lending which has exploded in California and across the country in recent years.

Consumer Action has joined many other advocacy groups across the country in the fight against predatory lending and in support of those proposed measures to curb these activities. As an advocate for the elderly, the working poor, disadvantaged neighborhoods and people of colour, we see a dramatic rise in predatory lending practices which steal wealth from these communities. Bank regulators and legislators must enforce rules and regulations to keep predatory lenders from stealing a community's only assets. Unscrupulous lenders and brokers are preying on California's most economically vulnerable citizens by using aggressive sales pitches and other manipulative practices. Many of these communities have also been under-served by conventional banks that offer prime lending products. While we recognize that there may be a need for *responsible* sub-prime lending, we strongly support an end to predatory practices that unfairly target the most vulnerable populations.

We now all know about unscrupulous lenders that use prepayment penalties to trap borrowers into abusive loans. There is also the fact of stiff late fees associated with these loans. The current AMTPA regulations and OTS interpretations have wrongly facilitated the proliferation of prepayment penalties and late fees in predatory loans. Prepayment penalty and late fee provisions are not intrinsic to alternative mortgages, they are merely loan

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features that have been misused and abused by predatory mortgage lenders that use OTS regulations to circumvent state law protections.

Consumer Action cannot emphasize enough how urgent it is to remove AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages. While we applaud the OTS effort to close this predatory lending loophole, the OTS could have and should have made its proposal stronger. In the case of prepayment penalties, we support the proposal of the National Community Reinvestment Coalition (NCRC) that the OTS should adopt 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.

We 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. This change will not restrict the ability of covered lenders to offer alternative and adjustable rate mortgages, the chief concern of AMTPA, but will merely allow state legislators to protect Californians' main source of wealth.

Sincerely,


Ken McEldowney
Executive Director

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