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**American Conference  
of  
Uniform Consumer  
Credit Code States**

June 28, 2000

Manager, Dissemination Branch  
Information Management & Services Division  
Office of Thrift Supervision  
1700 G. Street, NW  
Washington, D.C. 20552

2000 JUN 30 A 10:25  
UNIVERSITY MICROFILMS  
SERIALS ACQUISITION  
300 N ZEEB RD  
ANN ARBOR MI 48106

RE: Responsible Alternative Mortgage Lending  
Docket No. 2000-34

Dear Sir or Madam:

The American Conference of Uniform Consumer Credit Code States ("ACUCCCS") submits these comments to the Office of Thrift Supervision's ("OTS") advance notice of proposed rulemaking on Responsible Alternative Mortgage Lending, issued April 5, 2000. ACUCCCS is an organization of the consumer credit regulators from states that have adopted the Uniform Consumer Credit Code ("UCCC"). The UCCC was drafted in 1968 by the National Conference of Commissioners on Uniform State Laws.

One of the stated purposes of the UCCC is to protect consumer borrowers from unfair practices while encouraging legitimate lenders. Each member state of ACUCCCS has its own statutes or regulations addressing whether lenders making loans to its residents may contract for and impose delinquency fees, prepayment penalties, and balloon payments. Some member states also restrict the amount of these fees and the conditions under which they may be imposed. Each member state has its own licensing or registration requirements that apply to non-depository housing creditors. These statutory enactments were made by each state's legislative body after full and open debate and reflect each state's judgments about appropriate consumer credit protection.

Despite state regulation of these lenders and the terms and conditions of the loans they may make, the Alternative Mortgage Transactions Parity Act ("AMTPA") has defeated the states' attempts to impose reasonable

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*Colorado  
Oklahoma*

*Indiana  
South Carolina*

*Iowa  
Wisconsin*

*Kansas*

*Maine  
Wyoming*

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consumer credit protection laws. AMTPA, and the regulations issued thereunder by the OTS, allow non-depository housing creditors to preempt these state laws.

AMTPA was adopted at a time of high interest rates. Some state law restrictions on mortgage structuring prohibited adjustable rate mortgages and other non-traditional mortgages. With the vast array of credit products now available, none of our member states prohibit adjustable rate mortgages. The continued justification for AMPTA and the OTS regulations is questionable as mortgage loan structuring is virtually unlimited.

At the same time, there is evidence that some lending practices may result in loss of home equity or home ownership or extremely high debt amounts for unsophisticated borrowers. Congress has expressed its concerns in this area by enacting the Home Ownership and Equity Protection Act of 1994, a law that takes precedence over AMTPA for certain high-rate, high-fee mortgage loans. In so doing, Congress recognized that unrestricted prepayment penalties, balloon payment provisions, and negative amortization may be detrimental to home ownership.

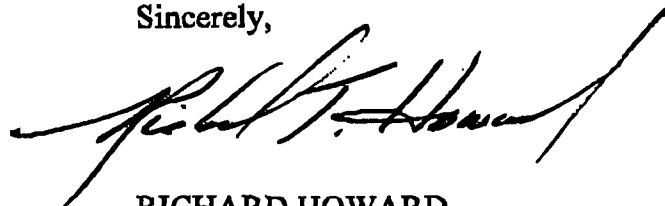
Some states have also passed legislation to prohibit predatory lending practices but have found their laws unenforceable due to AMTPA's preemptive effect. AMTPA may unintentionally enable unscrupulous lenders to engage in predatory lending. Some housing creditors otherwise licensed or registered by the states structure their transactions as alternative mortgages in order to take advantage of OTS regulations that preempt state laws on delinquency fees, prepayment penalties, and balloon payments.

Preemption of state laws may, on occasion, be reasonable for federally-chartered and supervised depository institutions but the OTS regulations issued under AMTPA have a much greater impact. Housing creditors are not chartered or supervised by the OTS and are not examined by the OTS for compliance with OTS regulations. Nonetheless, these housing creditors may assert their unverified compliance with AMPTA and OTS regulations and thereby preempt the substantive provisions of the state consumer credit laws under which they are licensed.

As an organization of state consumer credit regulators, we are concerned about federal preemption of state consumer credit protection laws by institutions not chartered or supervised by the federal government. For these reasons, we recommend the OTS revise its regulations of housing creditors under AMTPA to eliminate or reduce preemption of state laws on delinquency fees, prepayment penalties, and balloon payments.

We appreciate your consideration of these views.

Sincerely,



RICHARD HOWARD  
President  
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