Fifth Third Bank

Cindy Manzetti
Senior Vice President
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April 13, 2006

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street & Constitution Avenue, NW
Washington, D.C. 20551
Docket No. OP-1246

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2005-56

Office of the Comptroller of the Currency
250 E Street, SW.
Mail stop 1-5
Washington, D.C. 20219
Attention: Docket No. 05-21

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Ms. Mary Rupp
Secretary of the Board
National Credit Union
1775 Duke Street
Alexandria, VA 22314

Re: Proposed Interagency Guidance on Nontraditional Mortgage Products

Ladies and Gentlemen:

Fifth Third Bancorp (Fifth Third) appreciates the opportunity to comment on the proposed guidance on nontraditional mortgage products issued jointly on December 20, 2005 by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration (the Agencies).

Fifth Third Bancorp is a diversified financial services company headquartered in Cincinnati, Ohio. The Company has $105.2 billion in assets, operates 19 affiliates with 1,129 full-service Banking Centers in Ohio, Kentucky, Indiana, Michigan, Illinois, Florida, Tennessee, West Virginia, Missouri and Pennsylvania. Our primary businesses include commercial and retail banking, consumer finance, asset management, and payment processing.

Our comments address the proposed guidance for nontraditional mortgage products. Fifth Third realizes the risks associated with nontraditional mortgage products and the potential impact on the consumer and generally supports the issuance of regulatory guidance regarding these products. However, this letter also accentuates Fifth Third's concerns with the underlying rules as presented by this proposed guidance.

General Comments

- The guidance does not apply to state licensed lenders. To maintain a level playing field, state regulators should also maintain a comparable guidance.
- The guidance should be a best practice, not a required procedure for nontraditional mortgage lending. Currently, Fifth Third does not offer negative amortizing or payment option mortgages. However, based upon the wording the guidance, the bank would be **required** to implement new processes and procedures. These processes and procedures may not be commensurate with the level of risk associated with these specific products when compared to the mortgage portfolio as a whole.
- Fifth Third fully recognizes the risk of rising interest rates and a slow down in housing appreciation, especially in relation to nontraditional mortgages. However, it may be too early to fully understand the performance of these products due to lack of seasoning. Tightening underwriting guidelines and requiring delivery of excessive disclosures to consumers may stifle innovative product development before we have evidence that these products are actually detrimental to either consumers or the financial institutions that offer them. Sound risk management practices should be robust enough to detect and resolve issues with nontraditional mortgage products.

Specific Comments

<u>Loan Terms and Underwriting Standards</u>
The proposed guidance requires that institutions offering nontraditional mortgage products should set underwriting standards that address "the effect of a substantial payment increase on the borrowers capacity to repay when the loan amortization begins" or payment shock. The guidance recommends recognizing payment shock by calculating the borrower's repayment capacity based on the debt on final maturity at the fully indexed rate. Additionally, for negative amortization, "the repayment should include the initial amount plus any balance increase that may accrue from the negative amortization provision." Predicting future interest rates and the likelihood of a borrower to pay down on products with negative amortization is speculative at best. Additionally, if stricter repayment calculations are enforced, the calculations will most likely be worst-case scenarios that would be extremely unfair to the average consumer. These could potentially limit the number of applicants that would otherwise qualify. We strongly urge the Agencies to reconsider the recommendation to calculate repayment capacity to recognize potential payment shock.

In the Request for Comment section the following question is raised, "Should the Guidance address the consideration of future income in the qualification standards for nontraditional mortgage loans with deferred principal and, sometimes, interest payments?" Any estimate of the borrower's future income is speculative, variable, unverifiable and open for broad interpretation by various financial institutions. Furthermore, such estimates could run afoul of other fair lending regulations. Fifth Third recommends excluding estimation of future income along with repayment calculations that address worst-case scenario payment shock.

Portfolio and Risk Management Practices

The guidance suggests that concentration limits for nontraditional mortgage products be set for loan types, geographic area, property occupancy status, high loan to value, high debt to income, etc. etc. Further the guidance states that institutions that have excessive concentrations will be subject to "elevated supervisory attention and potential examiner criticism." Fifth Third respectfully disagrees with guidance. Sound risk management balances risk and return. This includes an analysis of concentration risk. If an institution is paying no attention to such risks, then the Regulators are already free to impose a higher level of scrutiny without additional regulation.

Consumer Protection Issues

Fifth Third understands the importance of providing appropriate disclosure to the consumer during the decision making process. Given the more complex nature of today's mortgage products, there should be better uniform disclosures to aid the borrowers in making informed decisions. We strongly urge the Agencies to reconsider the proposal requiring disclosures when "promoting or describing" nontraditional mortgage products. Requiring disclosures at this "discovery" stage would cause increased regulatory burden that would be difficult to enforce. Instead, specific mortgage disclosures for nontraditional products should be delivered at the time of application. Further, for nontraditional mortgage products, Fifth Third recommends that the guidance define criteria for clear and concise disclosures that are uniform throughout the industry. Clear and concise uniform disclosures will aid the borrower in making informed decisions especially when comparing product offerings from various financial institutions.

The nontraditional mortgage guidance also outlines specific requirements for monthly statements on payment option ARMs. The guidance recommends that each institution should present each payment option available, explain each option, and note the impact of each choice. Further, the guidance states that institutions should "avoid leading payment option ARM borrowers to select minimum payment." We understand the importance of the consumer making informed decisions, which is why we support uniform disclosures at the time of application. However, we do not feel that is lender's responsibility to help the consumer determine the appropriate payment option each month. Are financial institutions required to issue warnings in home equity line of credit statements that future draws could potentially impact the borrowers equity in their home? Full and fair disclosures make sense. Paternalistic regulations that underestimate the intelligence of the American public do not.

We trust that our comments will provide you with the information necessary to facilitate refinements to the proposed guidance. Ultimately, Fifth Third supports the Agencies in its effort to create a prudent and enforceable guidance to ensure safe and sound, uniform nontraditional mortgage product practices for all financial institutions.

Should you want to discuss our comments in greater detail, please contact me at (513) 534-6536 or Brian Bulger at (513) 534-7242.

Sincerely,

Cindy Manzetti

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Chief Credit Officer
SVP, Enterprise Risk Management
Fifth Third Bancorp