CONSUMER MORTGAGE COALITION

December 4, 2006

Office of the Comptroller of the Currency
250 E Street, SW
Public Reference Room
Mail Stop 1-5
Washington, DC
Attn.: Docket No. 06-12
Regs.comments@occ.treas.gov

Robert E. Feldman
Executive Secretary
Attn.: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Comments@FDIC.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn.: Docket No. 2006-36
regs.comments@ots.treas.gov

Jennifer Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave. NW
Washington, DC 20551
Attn.: Docket No. OP-1246
Regs.comments@federalreserve.gov

Mary Rupp
Secretary of the Board
National Credit Union
Administration
1775 Duke Street
Alexandria, VA 22314-3428
regcomments@ncua.gov

Re: Proposed Illustrations of Consumer Information for
Nontraditional Mortgage Products (71 Fed. Reg. 58672 [Oct. 4. 2006])

Dear Sirs and Madams:

The Consumer Mortgage Coalition (the "CMC"), a trade association of national residential mortgage lenders, servicers, and service-providers, appreciates the opportunity to submit these comments on the Proposed Illustrations of Consumer Information for Nontraditional Mortgage Products issued for public comment by the Office of the

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Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the National Credit Union Administration (the "Agencies") on October 4, 2006.

We appreciate the Agencies' effort to provide specific examples of how to make disclosures as recommended in the Interagency Guidance on Nontraditional Mortgage Products. Before turning to our specific comments on the proposed illustrations, we note that our comments on the Guidance stated our concern that safety-and-soundness guidance for regulated institutions is not the appropriate location for detailed disclosure requirements. Because the agencies have decided to move forward with disclosures in the Guidance, it is imperative that any additional disclosures should apply to all lenders, not only institutions and their affiliates that are subject to examination by the Agencies, and they should protect all consumers. The release of joint uniform model guidance by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators is a good step in the direction of uniform disclosures by all lenders. The next step is to ensure that a consistent level of compliance is enforced regardless of the institution's charter.

In addition, we note that these disclosures will be superimposed on an extensive array of notices required by Regulation Z and Regulation X. As the Agencies themselves have recognized in other contexts, the existing disclosure scheme for home mortgage and home equity lending is badly in need of modernization to reflect the current mortgage market, and there is a risk that the additional disclosures recommended in the Guidance will further confuse, rather than inform, consumers. The CMC would be very pleased to work with the Agencies to develop a streamlined set of forms and information booklets that will actually be informative to consumers, and that will help consumers make the best loan decisions for themselves.

Moreover, although we appreciate the Agencies' statement that use of these disclosures is voluntary, federally-regulated institutions that do not provide notices in a form similar to the models issued by the Agencies are likely to be subject to criticism by examiners in the field and by community groups that comment on their Community Reinvestment Act performance. Therefore, it is important that the model disclosures present a balanced picture of both the benefits and the risks of these products, in comparison to the advantages and disadvantages of more traditional loans.

Turning to the specific proposed language of the illustrations, we note that both the narrative and the numerical initial disclosure examples (Illustrations 1 and 2) present a negative view of nontraditional mortgage products without discussing the benefits of the products, which led consumers to demand more flexibility in repaying their mortgages and lenders to respond by offering innovative products. The illustrations present a "worst-case" scenario that could lead consumers to choose a more traditional product that is not advantageous for them.

For example, both narrative examples note that the consumer's monthly payment will increase if the consumer pays only the amount that is due during the initial period. They could also note some of the positive aspects of the products for consumers, such as that:

- The consumer's minimum payment will be lower during the initial period, and the consumer may apply the difference to other investments (including an investment in a small business), to savings, or to improving the property.

- The lower initial minimum payment gives consumers more flexibility in managing their monthly expenses. This may allow borrowers to stay current during period of temporary financial difficulty or to plan for a period of high expenses such as college tuition.

- Loan plans with flexible payments allow borrowers who have uneven incomes to manage their cash flow.

Similarly, the proposed narrative illustration:

- Notes that the consumer may not be building equity, but does not note that the savings in payments may be applied to other investments that are not dependent on the housing market, allowing the borrower to have a more diversified investment portfolio.

- Notes that some loans carry a prepayment penalty, but does not note that such a penalty is often tied to a lower interest rate and monthly payment.

- Notes that "reduced documentation" loans are often more expensive, but does not note that such loans allow small businesspeople and self-employed individuals to obtain financing without meeting onerous documentation requirements.

The numerical illustration, similarly, presents a worst-case scenario in which the consumer is assumed to make the minimum possible payment for each type of nontraditional mortgage product. Because the illustration does not present a realistic picture of most consumers' likely experience, it may be more confusing than helpful to many borrowers.

Furthermore, the numerical illustration disregards the fact that the difference in payments on a nontraditional mortgage product could be applied to savings or other investments. As noted above, the amount that the consumer saves in payments in an interest-only or payment-option mortgage, although it is not applied to equity, does not disappear but can be applied to other investments. Of course, it is important for consumers to be aware that such a loan lacks the "forced-savings" element of a traditional amortizing mortgage (and may involve additional borrowing) and that it is their responsibility to prepare for potential increases in payments at the end of the interest-only or payment-option period.

In order to be able to do so, however, consumers should be told how much they would save in total monthly payments by choosing a nontraditional loan. At a minimum, the illustration should show the substantial difference in total payments between the traditional amortizing loans and nontraditional mortgage products and explain that the consumer can reinvest those amounts elsewhere and earn a return on them. Ideally, the illustration would also assume a reasonable rate of return on the savings in payments, so as to avoid misleading consumers about the true difference in cost between an amortizing and non-amortizing loan.

In addition, the examples assume roughly similar interest rates for the different products being compared. While this may be accurate in the current, atypical interest-rate environment, fixed-rate amortizing mortgages have historically been more expensive than other products because the lender assumes all of the interest-rate risk and fixed-rate loans tend to have relatively high prepayment risk. The Agencies should make it clear that lenders may use realistic rates in their examples, which will often show an even greater difference in payments between traditional and non-traditional loans.

It is important that these examples be consistent with both the recently-issued booklet, *Interest-only Mortgage Payments and Payment-Option ARMs-Are They for You?*, and the *Consumer Handbook On Adjustable Rate Mortgages* issued under Regulation Z, when it is revised to incorporate nontraditional mortgage products and other recent changes in mortgage lending. These publications should also provide a more balanced view of the benefits and risks of newer, innovative mortgage products, as discussed above.

The monthly payment illustration (Illustration 3) should make it clear that the proposed description of the impact of various payment alternatives on the monthly statement is only one approach to providing consumers with this information. Other alternatives should include, among other things, more detailed explanations that might be delivered less frequently but referenced on each monthly statement; or an explanation contained on a web page that could also be referenced in the monthly statement.

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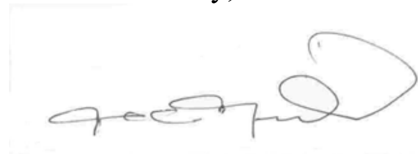
The CMC appreciates the opportunity to comment on the proposed illustrations. Please call me at (202) 544-3550 or send an e-mail message to anne@canfieldassoc.com with any questions.

Sincerely,



Anne C. Canfield
Executive Director