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President and CEO

December 5, 2006

Comptroller of the Currency  
250 E Street, SW  
Mail Stop 1-5,  
Washington, DC 20219  
Re: Docket No. 06-12

Robert E. Feldman  
Executive Secretary  
Attention: Comments  
FDIC  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429

Jennifer J. Johnson, Secretary  
Board of Governors  
Federal Reserve System  
20<sup>th</sup> & Constitution Ave., NW  
Washington, DC 20551  
Re: Docket No. OP-1267

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC, 20552  
Attention: No. 2006-36

Dear Sir or Madam:

The Independent Community Bankers of America<sup>1</sup> welcomes the opportunity to comment on the proposed Illustrations of Consumer Information for Nontraditional Mortgage Products. The three illustrations contained in the proposal show how important information about nontraditional mortgages could be provided to consumers in a concise and focused manner and format.

The banking agencies offer the proposed illustrations in response to suggestions by industry representatives that the agencies include model or sample disclosures or other

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<sup>1</sup> *The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

*With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 265,000 Americans, ICBA members hold more than \$876 billion in assets \$692 billion in deposits, and more than \$589 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).*

descriptive materials as part of the Interagency Guidance on Nontraditional Mortgage Products. The banking agencies state that use of the proposed illustrations would be *entirely voluntary* and there is no agency requirement or expectation that institutions must use the illustrations in their communications with customers. Institutions could at their option:

- Elect to use or not use the illustrations;
- Provide information based on the illustrations, but expand abbreviate, or otherwise tailor any information in the illustrations as appropriate to reflect for example:
  - The institution's product offerings, such as by deleting information about loan products and loan terms not offered by the institution and by revising the illustrations to reflect specific terms currently offered by the institution;
  - The consumer's particular loan requirements;
  - Current market conditions, such as by changing the loan amounts, interest rates, and corresponding payment amounts to reflect current local market circumstances, and
  - Other information, consistent with the Interagency Guidance, such as the payment and loan balance information for monthly statements discussed in connection with Illustration 3 or information about when a prepayment penalty may be imposed,
- Provide the information described in the Interagency Guidance, as appropriate, in an alternative form.

### **ICBA Views**

In general, ICBA views the proposed illustrations as useful in helping consumers understand the risks of nontraditional mortgage products. The illustrations are also helpful to community banks seeking ways to develop such disclosures. Illustration 1 is more descriptive and thus provides more clarity to the consumer than Illustration 2. We think that a loan officer would need to talk most customers through Illustration 2 to ensure it is understandable and to answer questions. While there is benefit to provide a reminder to borrowers holding mortgages with payment options, providing Illustration 3 in monthly statements should not be viewed as a requirement as it would be more burdensome for community banks not currently providing monthly statements.

We strongly support the banking agencies' statements that these disclosures are *entirely voluntary*. Community banks generally do not market or promote nontraditional loans. However, some community banks will make the loans to certain customers when it is would be the most appropriate loan product for their situation and they have the ability to manage its risk. Typically, when a customer asks for a nontraditional loan, community bankers say that they discuss the advantages and disadvantages of nontraditional loans and most often when the customer understands the risk, he or she opts for a fixed rate loan. We think such a discussion is generally more beneficial than simply handing a customer another written disclosure. It would be overly burdensome to both the borrower and the lender to require that these disclosures be added to a stack of disclosures that consumers already find difficult to wade through. Also, we hope that that it is fully

communicated to examiners that the disclosures are truly optional so that they are not inappropriately turned into a mandatory requirement which would be particularly burdensome to community banks that do not regularly market nontraditional mortgages.

We appreciate the opportunity to comment on the proposed guidance. If you wish to discuss our comments further, please contact the undersigned at 202-659-8111 or email at [ann.grochala@icba.org](mailto:ann.grochala@icba.org).

Sincerely,

A handwritten signature in blue ink that reads "Ann M. Grochala". The signature is written in a cursive, flowing style.

Ann M. Grochala  
Director, Lending and Accounting Policy