



Massachusetts
**Housing
Partnership**

July 22, 2011

Via e-mail: regs.comments@federalreserve.gov

Dr. Ben S. Bernanke, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

160 Federal Street
Boston, Massachusetts 02110
Tel: 617-330-9955
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RE: Amendment to Regulation Z; Truth in Lending
Docket No. R-1417; RIN No. 7100-AD75

462 Main Street
Amherst, Massachusetts 01002
Tel: 413-253-7379
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Dear Dr. Bernanke:

Please accept this letter in response to the request for public comments on the proposed rule amending Regulation Z (Truth in Lending) to implement amendments to the Truth in Lending Act (TILA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act. I submit these comments on behalf of the Massachusetts Housing Partnership (MHP), a quasi-public state agency.

www.mhp.net

While MHP supports most aspects of the proposed ability-to-repay and qualified mortgage (QM) rules, we believe that more flexibility is needed to ensure that the requirements don't needlessly interfere with loan products – including our own – that meet critical market needs, are carefully underwritten, and have shown excellent long-term loan performance.

The SoftSecond[®] Loan Program was developed in response to a landmark Federal Reserve Bank study in 1989 that documented mortgage lending discrimination in Boston. The program operates through a partnership between state government, banking institutions and community organizations that is unparalleled anywhere else in the U.S. Since the early 1990s the SoftSecond program has made it possible for over 15,000 families to become successful homeowners in Massachusetts, with 97 percent of the cost and 99 percent of the credit risk borne by private institutions. The program has put \$2.5 billion in discounted, private sector capital into Massachusetts neighborhoods.

Under the current program structure, participating banks make a 30-year fixed-rate loan that can be sold on the secondary market and a 30-year fixed-rate second mortgage loan, interest only until year 11, which is held in portfolio. Both mortgage loans are offered at the same discounted fixed interest rate, generally the lender's two point rate, charging zero points to the buyer. In lieu of private mortgage insurance, public funds are set aside as a loan loss reserve which is pooled for each lender. Qualified borrowers may also receive a publicly-funded interest subsidy on their second mortgage loan, which results in a graduated payment between years five through eleven.

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In the midst of the current economic crisis SoftSecond has become even more important. Nearly half of our lending is in cities hardest hit by foreclosure, which helps ensure that our urban real estate markets remain viable and that properties remain occupied and on tax rolls. Even though SoftSecond borrowers have average household income below \$48,500, the program continues to compare favorably with delinquency and foreclosure rates for prime, fixed-rate mortgages in Massachusetts. SoftSecond is an excellent example of "homeownership done right" and was recently named one of the "Top 25" programs in the 2010 Innovations in American Government competition sponsored by the Ash Center for Democratic Governance and Innovation at the Harvard Kennedy School.

As currently structured, SoftSecond would not meet QM requirements because of the interest-only feature. Similarly, the requirement to qualify using monthly, fully-amortizing, substantially equal payments as set out in the ability-to-repay requirements would be problematic as well. MHP has compelling data, after twenty years of experience and more than 15,000 loan originations, that a carefully designed graduated payment loan product can achieve loan performance comparable to prime, conforming loans.

Although we are currently considering changes to the SoftSecond program which may make the product conform to the proposed ability-to-repay and/or QM requirements we remain concerned that the complex set of rules designed to address "bad" lending may prove constraining and inhibit successful local initiatives such as ours. We urge the Consumer Financial Protection Bureau (CFPB) to allow for deviations from the ability-to-repay and QM requirements for state-approved mortgage loan products that provide opportunities for low- and moderate-income families where such products have demonstrated statistically valid, empirically-tested outcomes. Provision should also be made to allow for new, state-approved pilot programs. Congress, in Dodd-Frank, specifically authorized deviations from the QM requirements to ensure that responsible, affordable mortgage credit remains available to consumers.

Our program is a national model for fully educating low- and moderate-income buyers before they decide to purchase a home, for limiting participation to households that are creditworthy and prepared for ownership, and for providing adequate post-closing support and follow-up to maximize successful outcomes and prevent unnecessary defaults. While these essential ingredients for success do not come into play in the ability-to-pay and QM regulations they could be taken into account if the CFPB allowed for state-approved programs that include rigorous education and counseling components.

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Thank you for your consideration of these comments. The flexibility we have proposed will ensure that the much-needed regulation in the mortgage industry brought about by Dodd-Frank will allow innovative products with proven track records serving low- and moderate-income families to flourish. Please contact me with any questions. I can be reached at 617-330-9944x226; jjacobson@mhp.net.

Sincerely,



Judith S. Jacobson
Deputy Director & General Counsel