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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
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Washington, DC 20552

Via Facsimile: (202) 906-6518
Via e-mail: regs.comments@ots.treas.gov.

Attention: Docket No. 2002-17

To Whom it May Concern:

JOLT, (Justice Organizers, Leadership and Treasurers) strongly supports the proposed changes to the Office of Thrift Supervision's regulations implementing the Alternative Mortgage Transaction Parity Act (AMTPA). These changes will make clear that California's laws regulating prepayment penalty provisions and late fees protect many more borrowers. These two loan provisions are mainstays of predatory mortgage lending which has exploded in California and nationally in recent years.

JOLT is a coalition of 20 faith-based organizations who promote economic justice through investments, education and action. Jolt members (1) address issues of corporate social accountability through investment screens, proxy voting and dialogue/shareholder action with portfolio companies and (2) direct capital (at below-market rates of return) to community-based initiatives that benefit underserved persons and communities. JOLT members are particularly concerned about increasing access to capital for low-income communities. Because of our commitment to economic justice we have been supportive of efforts to address predatory lending issues. We are very proud of the efforts in Oakland, CA. to stop predatory lending.

We know about unscrupulous lenders that use prepayment penalties to trap borrowers in abusive loans. Borrowers have also faced stiff late fees associated with abusive loans. The current AMTPA regulations and OTS interpretations have wrongly facilitated the proliferation of prepayment penalties and late fees in predatory loans. Prepayment penalty and late fee provisions are not intrinsic to alternative mortgages, they are merely loan features that have been misused and abused by predatory mortgage lenders that use OTS regulations to circumvent state law protections.

In 1996, the OTS interpretation first allowed state chartered lenders to suggest that AMTPA preempts state limits regarding prepayment penalties and late fees on alternative mortgages. This interpretation was wrong and inconsistent with the intent of Congress in passing AMTPA. This single change in the OTS regulations during 1996 significantly contributed to the dramatic increase in predatory lending of the last few years. Non-depository institutions and mortgage companies that were state-chartered applied prepayment penalties at such a high rate that the great majority of subprime borrowers (approximately 60% of California's subprime borrowers, according to a study conducted by the California Reinvestment Committee) now have prepayment penalties. In contrast, only 2 percent of prime borrowers have prepayment penalties on their loans according to Standard and Poor's. This huge difference in the application of prepayment penalties suggests that prepayment penalties trap subprime borrowers into abusive loans, and that subprime borrowers do not freely accept prepayment penalties as a means of lowering their interest rates.

JOLT cannot emphasize enough how urgent it is to remove AMTPA's preemption of state limits regarding prepayment penalties and late fees on alternative mortgages. While we applaud the OTS effort to close this predatory lending loophole, the OTS could have and should have made its proposal stronger. The AMTPA statute provides OTS with the discretion to prescribe general limits on loan terms and conditions. In the case of prepayment penalties, we support the proposal of the National Community Reinvestment Coalition (NCRC) that the OTS should adopt a two-year limitation on prepayment penalties for the alternative mortgages issued by all the institutions it regulates including federally chartered thrifts, state-chartered thrifts and non-depository institutions. The limitation would also stipulate the maximum amount of the prepayment penalty at one percent of the loan amount.

We applaud the OTS for proposing this change to their AMTPA regulations and ask the OTS to implement this change as quickly as possible after the close of the public comment period. This change will not restrict the ability of covered lenders to offer alternative and adjustable rate mortgages, the chief concern of AMTPA, but will merely allow state legislators to protect Californians' main source of wealth.

Sincerely,

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Cc. California Reinvestment Committee