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January 25, 2007

Mr. Mark Pearce
Deputy Commissioner of Banks
State of North Carolina
Office of the Commissioner of Banks
316 W. Edenton Street
Raleigh, NC 27603

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Dear Mr. Pearce:

Thank you for your letter of January 11, 2007 to Ed Yingling concerning proposed guidance by the State of North Carolina on nontraditional mortgage products. We appreciate North Carolina's efforts to ensure that lenders within your jurisdiction are subject to guidance comparable to what the federal regulators recently adopted. We also appreciate the opportunity to share our views on a possible expansion of the scope of the federal guidance. As discussed in greater detail below, our primary interest at this point is in ensuring that the banking industry has notice of, and an opportunity to comment on, any expansion before it is adopted.

The federal banking regulators recently adopted final guidance on nontraditional mortgage products.¹ As stated in the preamble to that guidance, "the guidance applies to all residential mortgage loan products that allow borrowers to defer repayment of principal or interest. This includes all interest-only products and negative amortization mortgages, with the exceptions of [home equity lines of credit]."²

After the regulators issued that guidance, several members of the U.S. Senate raised the question of whether it should apply to hybrid adjustable rate mortgage (ARM) products, such as the "2-28" ARM (which permits a lower interest rate during the initial 2-year period and an adjustment of the rate thereafter).³ The regulators have indicated that they are looking at this issue.

While the terms of a given loan may differ, typically hybrid ARMs are neither interest-only nor negative amortization mortgages. Thus, including these products within the scope of the guidance would expand significantly the universe of products it covers and the compliance burden on banks and their affiliates.

¹ 71 Fed. Reg. 58609 (Oct. 4, 2006).

² *Id.*, at 58610.

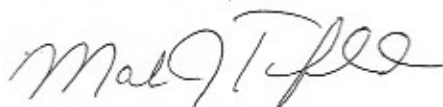
³ On December 7, 2006, Senators Sarbanes, Dodd, Reed, Allard, Bunning, and Schumer submitted a joint letter to the four banking agencies, the National Credit Union Administration, and the Conference of State Bank Supervisors urging the regulators to apply the guidance to hybrid ARMs.

Hybrid ARMs fill a need for customers who seek the flexibility to make lower initial payments. They were created to enhance homeownership opportunities and have been used for home mortgages for at least two decades. Any change to the regulatory environment in which hybrid ARMs are offered runs the risk of curtailing their availability as well as creating new compliance challenges for banks with respect to long established products.

For these reasons, we – along with eight other trade associations⁴ – have urged the federal regulators to provide interested parties an opportunity to comment on any proposed expansion of the nontraditional mortgage guidance. We believe this is a necessary precursor to an informed decision about the benefits and risks of the products in question and ways they can be offered in a safe and sound manner.

We would be happy to work with your office on this issue should the federal regulators pursue a proposed amendment to their guidance. Towards that end, please feel free to call me or Paul Smith, (202) 663-5331, should you have any questions.

Sincerely,



Mark J. Tenhundfeld

cc: Ed Yingling
Paul Smith

⁴ The other trade associations that joined ABA in a letter to the federal banking agencies are America's Community Bankers, American Financial Services Association, Coalition for Fair & Affordable Housing, Consumer Bankers Association, Consumer Mortgage Coalition, The Financial Services Roundtable, Independent Community Bankers of America, and Mortgage Bankers Association.