American Credit Union Mortgage Association

April 22, 2006

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

Subject: ACUMA Comment Call Response for Proposed Guidance on Nontraditional Mortgage Products

The American Credit Union Mortgage Association (ACUMA) appreciates the opportunity to provide comment to the National Credit Union Administration regarding the Proposed Guidance on Nontraditional Mortgage Products.

ACUMA was founded in 1996 and is the only Credit Union Trade Association focused on elevating the expertise of credit union mortgage lending. ACUMA is an organization of and for credit unions dedicated to the simple principle that credit unions have both an obligation and a competitive need to become the "premier provider of home loans for their membership". ACUMA represents the full spectrum of credit union mortgage producers, from the largest to the smallest, and additionally has associate membership consisting of the premier providers of services to credit union mortgage lenders as well as noted secondary market experts Fannie Mae, Freddie Mac, and the Federal Home Loan Bank system.

Credit Unions were granted the right to make 1st mortgage loans in 1978 and yet are still not predominately thought of as mortgage lenders. Credit Unions should reinforce their consumer advocate positioning pertaining to mortgage offerings that have potential for volatile payment scenarios. The Center for Responsible Lending (www.responsiblelending.org) and the National Association of Realtors (www.realtors.org) have jointly published a consumer guidebook entitled, "*Shopping for a Mortgage? – Do Your Homework First – Specialty Mortgages: What are the Risks and Advantages?"* which can be found at www.responsiblelending.org/pdfs/specialitymortgagebrochure0805.pdf. Unfortunately for consumers, this brochure is not in wide circulation and contains some good information on the topics mentioned in the proposed guidance. ACUMA would like to propose the creation of a similar credit union branded document, which would reinforce *both* credit union consumer advocacy and broaden the awareness of credit unions as mortgage lenders. We would however propose a more attention grabbing headline on the brochure such as, "Specialty Mortgages - *They May Be Hazardous to Your Wealth!"* for instance. A brochure of this type should be given to a member who is considering their mortgage options, allowing credit unions to position themselves as a knowledge resource for their membership. By focusing on educating the member and empowering them to make good decisions, credit unions can greater protect their balance sheet and probably more importantly minimize any chance of damaging their reputation. Another disclosure on the type of mortgages that are the point of the proposed guidance would stand a significant chance of being lost in the plethora of current disclosures and documents presented to a borrower. However, an attention grabbing brochure, on the other hand, combined with a credit union counseling approach would create an awareness of the potential pitfalls that these mortgages present to an unsuspecting borrower and could advance credit unions as mortgage lenders.

The guidance notes the proposed use of the wording, "Nontraditional Mortgages". While the proposed guidelines speak to interest-only mortgages, option-ARM, and negative amortization, it should be made clear as to exactly what type of mortgage loans need to be addressed. Many credit unions are very adept at making short-term, single-payment mortgages, bridge-loans, and other mortgages that could be considered nontraditional, yet do not have the potential for *payment volatility* or negative amortization. These types of mortgages should be exempt from the proposed guidance. Careful thought should be given to what is being put forth by inter-agency workgroups to make sure it is simple to understand and gives inexperienced lenders guidance without putting unnecessary administrative burdens on experienced lenders.

Most of the guidelines proposed are being utilized in the marketplace today and the capacity for repayment is being strictly scrutinized, especially when the potential for payment increase is taking place. As it concerns reduced documentation or stated income, the application a lender reviews should make sense. For instance a borrower who claims to make a certain wage should have cash assets/reserves and a lack of consumer debt that corresponds with the level of income stated, and should correspond to what is typically found in a marketplace for that profession and/or industry. Compensating factors should also be identified and documented in any underwriting to validate a decision, and higher loan to value positions, to include companion second mortgages, should have the additional protection of mortgage insurance and the second level of underwriting provided with that coverage.

Below, ACUMA will specifically address the questions proposed in addition to the comment so far provided:

(1) Should lenders analyze each borrower's capacity to repay the loan under comprehensive debt service qualification standards that assume the borrower makes only minimum payments? What are current underwriting practices and how would they change if such prescriptive guidance is adopted?

It is not prudent to underwrite a variable-payment mortgage loan based on minimum payments or the initial start rate. In most cases, a fully-indexed rate is used to ascertain whether the application meets debt ratio parameters. It should be noted however with the advent of automated underwriting systems, that debt ratios have been expanded which places a heavy reliance on credit scoring models to consider other underwriting factors such as employment, equity and cash reserves based on secondary market guidelines put forth by Fannie Mae and Freddie Mac.

(2) What specific circumstances would support the use of the reduced documentation feature commonly referred to as "stated income" as being appropriate in underwriting nontraditional mortgage loans? What other forms of reduced documentation would be appropriate in underwriting nontraditional mortgage loans and under what circumstances? Please include specific comment on whether and under what circumstances "stated income" and other forms of reduced documentation would be appropriate for sub-prime borrowers.

The circumstances where reduced documentation and/or stated income should be allowed in conjunction with the underwriting of nontraditional mortgages should typically be limited to lower loan to values; i.e. 75% or below, without documented compensating factors in which case higher loan to values could be considered. Additionally, if used in any loan to value situation, the level of income should be commensurate with what is typical for the profession or industry and should be reasonable with the totality of the application to include a review of cash assets/reserves and level of consumer debt carried; i.e. Does it make sense? The classification of a sub-prime borrower status <u>should not</u> receive additional scrutiny if the above standards are carried out which would eliminate the possibility of disparative treatment and a possible fair lending violation.

3) Should the Guidance address the consideration of future income in the qualification standards for nontraditional mortgage loans with deferred principal and, sometimes, interest payments? If so, how could this be done on a consistent basis? Also, if future events such as income growth are considered,

should other potential events also be considered, such as increases in interest rates for adjustable rate mortgage products?

No. The trend towards offering these riskier mortgage instruments to first-time homebuyers or unseasoned borrowers, who many not be prepared for the additional risk, is problematic. All factors, to include increases in future interest rates should be considered when underwriting volatile payment mortgage loans and the underwriting approval should adequately document the findings for each particular loan application.

Other comments:

With the advent of Internet based (online) applications it should be very easy for a lender to include clear and concise advice concerning the potential pitfalls associated with interest-only, volatile payment and mortgages with the potential for negative amortization. Specifically, the borrower's attention should be drawn to the fact that if the value of the home does not appreciate, the borrower could owe more on the home than it is worth. This is especially important in situations with higher loan to values. These disclosures could be displayed to all borrowers or be programmed for those borrowers with the above listed loan level attributes.

ACUMA would be pleased to collaborate with the NCUA to publish a consumer information booklet as proposed within this document.

Respectfully submitted on behalf of the American Credit Union Mortgage Association,

Robert Street
President/CEO American First Credit Union
ACUMA Chairman of the Board

Steve VanSickler
SVP/CLO Red Rocks Federal Credit Union
ACUMA Treasurer/Regulatory Compliance Committee Chair

cc: ACUMA Board of Directors
Bob Street, American First CU
John Reed, Maine Savings FCU/CUSO Mortgage
Steve VanSickler, Red Rocks FCU
Bob McKay, Baxter CU
Linda Hopkins, Lockheed Georgia Employees FCU
Dave Doss, Arizona State Savings & CU
Eileen Galligan, Digital FCU
Jack Buckman, Meriwest Mortgage
Mark Willer, Royal CU
Bob Dorsa, ACUMA President

ACUMA Regulatory Compliance Committee
Mark Dent, Rainland Mortgage
Frank Dunst, Toyota FCU
Steve Eisenberg, Pentagon FCU
Paul Scherman, Westconsin CU
Kathy Schroeder, CMGMI
Janice Sheppard, Southwest Airlines FCU
Shannon VanSickler, Red Rocks FCU