CUNA
Credit Union National Association
601 Pennsylvania Ave., NW | South Building, Suite 600 | Washington, DC 20004-2601 | PHONE: 202-638-5777 | FAX: 202-638-7734
cuna.org

July 30, 2009

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex T)
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Mortgage Acts and Practices Rulemaking, Rule No. 911004

To Whom it May Concern:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the Federal Trade Commission's (FTC's) advance notice of proposed rulemaking (ANPR) that solicits comments as to whether the FTC should restrict or prohibit certain activities that occur as part of the mortgage loan process, such as in the areas of advertising, marketing, loan origination, appraisals, and loan servicing. CUNA represents approximately 90 percent of our nation's 8,000 state and federal credit unions, which serve 92 million members.

Summary of CUNA's Comments

- CUNA agrees that the FTC should move forward in this process to determine if additional rules should be implemented with regard to the mortgage loan process to the extent these rules target predatory lending practices.
- Any rules developed should not be imposed on state-chartered credit unions that are subject to the FTC's jurisdiction under the FTC Act as credit unions have not been the source of the problems that these rules would address.
- The rules should focus on practices that are not adequately addressed under current law, but not prohibit or favor certain practices, although we would support the prohibition of mortgage loans with negative amortization features.

Discussion

As the only consumer owned cooperatives in the financial marketplace, credit unions have a tradition of protecting consumer interests, and CUNA has consistently been a strong proponent of fair lending practices and proper consumer disclosures. Consistent with this position, we support the goal of the ANPR, which is to determine if additional rules are needed to address certain activities that occur as part of the mortgage loan process, such as advertising, marketing, origination, appraisals, and loan servicing. We believe regulatory action on these issues is necessary and appropriate to the extent it targets those in the financial marketplace that have been subjecting consumers to predatory practices and agree that the FTC should use its authority under the unfair or deceptive acts or practices provisions of the FTC Act to develop these rules.

However, we are concerned that these rules may apply to state-chartered credit unions that are subject to FTC jurisdiction in this area. Credit unions have not been the source of problems for home loan borrowers and do not need additional rules to ensure they act in their members' best interests. Credit unions are not-for-profit financial institutions that are governed by boards of directors elected by credit union members to represent the members' interests. This is in sharp contrast to others who take advantage of vulnerable homeowners.

Further, if state-chartered credit unions are covered by the new rules, they will be needlessly subjected to new regulatory burdens that will add to their compliance costs. For these reasons, we urge the FTC not to include credit unions under the scope of any new rule to address practices in which credit unions do not engage.

In our view, the preferred approach would be for the FTC to develop rules that address practices in which either current state or federal law is silent or if an entity is otherwise unsupervised. Otherwise, we question whether an additional layer of regulations is helpful either to consumers or the financial entities who must comply.

We also caution against prohibiting or favoring certain types of loans over another, such as prohibiting certain types of variable rate mortgage loans. Different borrowers have different needs and variable loans may be appropriate in many situations. However, we would favor prohibiting one type of loan, which would be those that include negative amortization features. These serve little purpose other than to increase loan payments for borrowers who cannot afford them and may not have understood these features, as evidenced by the subprime mortgage crisis that was precipitated by these types of loans.

Thank you for the opportunity to comment on the ANPR that solicits comments as to whether the FTC should restrict or prohibit certain activities that occur as part of the mortgage loan process. If you have questions about our comments, please contact Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 638-5777.

Sincerely,

Jeffrey P. Bloch
Senior Assistant General Counsel