



# Comments on Proposed Rules and Amendments to the Truth in Lending Act

CMPS Institute supports and applauds the Federal Reserve Board's growing involvement in reforming the way that mortgage loans are originated and underwritten. It is evident that much thought was given to the proposed rules, and many of the rules are necessary to meet the Board's objectives of protecting consumers, promoting responsible lending practices and preserving sustainable homeownership. Here are a few suggestions based on our collective experience in working with home owners and buyers.

### Reliance on APR (Triggers, Disclosures, Advertising):

The Board proposes to use APR as the trigger to define the range of transactions that would be covered by the protections of the proposed § 226.35. We believe that APR should not be used as the trigger because this number can be easily manipulated by unscrupulous lenders and brokers. Further, we believe that the Board should re-evaluate and/or discontinue the use of APR in many home mortgage disclosure forms such as the Truth in Lending document and other disclosure forms. Additionally, we believe the Board should re-evaluate and/or discontinue the reliance on APR when regulating the way mortgage loan opportunities are advertised. Consider these two examples involving APR manipulation on a \$200,000 mortgage loan:

#### *Example 1 – APR Manipulation through Fee Classification:*

	Plan A	Plan B	
<b>Loan Amount</b>	<b>\$200,000</b>	<b>\$200,000</b>	
<b>Interest Rate</b>	<b>6.000%</b>	<b>6.000%</b>	
Points	1.000%	1.000%	Required to be counted toward APR
Application Fee:	\$500	\$0	Not required to be counted toward APR
Closing/Notary/Doc Prep Fee:	\$600	\$200	Not required to be counted toward APR
Appraisal Fee:	\$400	\$300	Not required to be counted toward APR
Title Insurance and other non-PFC Items	\$1,000	\$1,000	Not required to be counted toward APR
Other PFC Items (Underwriting, Processing, etc.)	\$500	\$500	Required to be counted toward APR
Total Closing Costs	\$3,000	\$2,000	
Total Points	\$2,000	\$2,000	
<b>Total Points and Costs:</b>	<b>\$5,000</b>	<b>\$4,000</b>	Plan A Costs \$1,000 More Than Plan B in real money. This would be equivalent to charging 0.5% more in points.
<b>APR:</b>	<b>6.118%</b>	<b>6.118%</b>	APR is the same although Plan A is clearly the more costly choice as it is costing the borrower \$1,000 more!

Example 1 illustrates how a lender could manipulate APR by charging more fees that are not classified as Pre-paid Finance Charges. This effectively hides these fees from the APR even though the loan terms are much more costly to a borrower than an alternative plan that has the exact same APR. This clearly can cause confusion among borrowers and completely undermines the Board’s stated goals of protecting consumers and ensuring that advertisements for mortgage loans provide accurate and balanced information that do not contain misleading or deceptive representations.

*Example 2 – Borrower Manipulation through APR and Finance Charge Comparisons:*

	<b>Plan A</b>	<b>Plan B</b>	
<b>Loan Amount</b>	<b>\$200,000</b>	<b>\$191,000</b>	
<b>Interest Rate</b>	<b>5.250%</b>	<b>6.000%</b>	
Points	3.000%	0.000%	Required to be counted toward APR
Application Fee:	\$500	\$0	Not required to be counted toward APR
Closing/Notary/Doc Prep Fee:	\$600	\$0	Not required to be counted toward APR
Appraisal Fee:	\$400	\$0	Not required to be counted toward APR
Title Insurance and other non-PFC Items	\$1,000	\$0	Not required to be counted toward APR
Other PFC Items (Underwriting, Processing, etc.)	\$500	\$0	Required to be counted toward APR
Total Closing Costs	\$3,000	\$0	
Total Points	\$6,000	\$0	
<b>Total Points and Costs:</b>	<b>\$9,000</b>	<b>\$0</b>	
<b>Interest Only Payment:</b>	<b>\$875</b>	<b>\$955</b>	
 <b>Total Finance Charges Paid Over Life of Loan</b>	 <b>\$234,944</b>	 <b>\$263,887</b>	 This number is part of the Truth in Lending Statement although nobody keeps their loans for entire 30 year timeframe.
 <b>APR:</b>	 <b>5.512%</b>	 <b>6.000%</b>	 APR and total finance charges are much lower in Plan A although Plan B is clearly the better choice if the borrower is going to keep their loan for less than 9.4 years as is normally the case!

Plan A Costs \$9,000 more than Plan B in real points and closing costs today. Compare this with Plan B where the borrower takes that same \$9,000 and reduces their loan balance on a higher-interest rate loan without any points or closing costs. It would appear that the borrower is saving 0.5% interest and nearly \$30,000 with Plan A. However, in reality the borrower would need to keep their loan for 113 months or 9.4 years before realizing any of the advertised savings! Being that most loans are paid off or refinanced in 5 years or less (and almost certainly before 9.4 years), Plan B would clearly be the better choice for the vast majority of borrowers. Yet, APR and finance charge disclosures which are supposed to protect consumers, are in reality doing the exact opposite and pushing them toward higher cost loans!

Lenders and brokers have no fiduciary duty to compare options for consumers, and the Board seems to be encouraging the practice of shopping among lenders for the lowest APR. By relying on APR, the Board is unintentionally pushing consumers toward higher cost loans. Simultaneously, lenders are required to prominently display APR in their advertisements as though this practice somehow benefits consumers when the exact opposite is true. This clearly causes confusion among borrowers and completely undermines the Board's stated goals of protecting consumers, promoting responsible lending practices, providing consumers with relevant transaction-specific disclosures and ensuring that advertisements for mortgage loans provide accurate and balanced information that do not contain misleading or deceptive representations.

For these reasons, we believe that the use of and reliance on APR should be completely discontinued and that a more accurate estimate of costs to the consumer should be used both as the trigger for the proposed rules, and more broadly, in the context of overall home mortgage disclosures. Specifically, see attached Addendum A – Home Mortgage Summary Disclosure Form – as an example of our recommended common-sense disclosure form that should replace the GFE, TIL and other confusing disclosures that consumers neither read nor understand. Consumers simply want to know the answer to these four questions:

- What is my interest rate?
- What is my payment?
- What are my total costs for this transaction?
- Under what conditions can any of the above change?

The sample form that we have attached as Addendum A is simple, effective and easy to understand and would bring much needed clarity to the mortgage process. The interest rate on fixed rate loans and the fully indexed rate on adjustable rate loans along with the total points and costs that are incurred with the transaction, as listed on Section #1 of our proposed form, should be used to determine whether the new rules are triggered.

Rather than using APR as the trigger, we recommend the following formula:

First-lien loans:

- The greater of:
  - Fixed Interest Rate / Fully Indexed Rate higher than applicable Treasury yields by 4%; or
  - Total Points and Other Closing Costs greater than 5% of the loan amount

Second-lien loans:

- The greater of:
  - Fixed Interest Rate / Fully Indexed Mortgage Interest rate higher than applicable Treasury yields by 6%; or
  - Total Points and Other Closing Costs greater than 5% of the loan amount

Regarding the way that loans are advertised, please see Addendums B and C for samples of our recommendations. Rather than using APR, which is irrelevant to the consumer and can be easily manipulated as illustrated above, it is wiser to simply require the advertiser to state the facts as relevant to the consumer as illustrated in the sample ads.

The nature of advertising is such that it entices people to buy or pursue interest in a product or service. Advertisers should still be able to attract customers to their product (home for sale or mortgage refinancing opportunity) by highlighting the benefit of their product to the consumer (namely the affordability and low monthly payment).

However, advertisers should also be required to honestly notify the consumer about certain terms and conditions that apply as illustrated in the sample ads. The way the sample ads are structured in Addendums A and B empowers advertisers to meet their goals while ensuring that consumers are not tricked or deceived into an unaffordable loan.

When the sample ads in Addendums A and B are coupled with the easy-to-understand sample "Home Mortgage Summary Disclosure Form" in Addendum A that consumers should be required to sign twice, at point of application and again at closing, there is virtually no way that a consumer can be deceived about the monthly payments, interest rate, costs and amortization terms of their loan.

In order to be effective, the disclosure we've attached as Addendum A should replace all other disclosure forms such as TIL, etc. Otherwise, consumers will simply shrug this off as "just another form" that they need to sign as part of the redundant and cumbersome mortgage process. Mortgage industry professionals such as loan originators, title companies, and notaries should be instructed to go through this form line by line when working with consumers. This should be treated as the "holy grail" disclosure of mortgage lending because it is simple, easy to understand and covers all the points that are most relevant to helping consumers make informed decisions about the affordability and terms of their mortgage loan.

Our recommended approach as outlined here will best help the Board achieve its stated goals of protecting consumers, promoting responsible lending, preserving sustainable homeownership, ensuring that advertisements for mortgage loans provide accurate and balanced information that do not contain misleading or deceptive representations and providing consumers with transaction-specific disclosures early in the mortgage process.

### **Stated Income Loans / Determining Borrower Ability to Repay - Sections 226.34 and 226.35:**

We highly respect the Board's efforts to develop rules and greater oversight for stated income and limited documentation loans with the goal of ensuring that homeowners have the ability to afford and repay their mortgage loans. Further, we believe greater oversight of stated-income lending is also needed in the Prime and Alt-A markets that are not covered by the proposed rules. Even so, we believe the proposed rules in their current form will severely limit the options available to disadvantaged, minority, elderly and other homeowners with special needs or limited and/or unusual sources of income.

The proposed rules are ambiguous and subjective, and, in many cases, seem to leave lenders to determine for themselves which criteria to “rely on” when underwriting a loan. Many lenders are likely to completely discontinue programs with flexible guidelines when faced with the daunting costs and liability of trying to comply with the grey areas in the proposed rules. For example, under what circumstance can a lender choose to rely on bank statements vs. income tax returns and what debt-to-income ratio based on bank statements constitutes a violation of the rules? What income should be stated and relied on if the borrower recently became self-employed and has no history of receiving income from their self-employment? Would lenders be violating the rules and acting irresponsibly if they issued mortgage loans in these cases with a 70% loan-to-value (LTV)? What about 80% or 90% LTV?

The only way to remove this ambiguity is for the Board to specifically “legislate underwriting guidelines” by proposing specific rules on how lenders should underwrite loans in various circumstances, including a specification of which documents lenders are required to rely on when making the loan. Otherwise, lenders will either find loopholes in the Board’s rules or curtail product innovation and discontinue making loans to borrowers who have unusual financial circumstances.

Therefore, as an alternative or “safe harbor” to some of these rules, the Board should consider adopting an “Affordability Disclosure” with language similar to Section #5 in our sample form that is attached as Addendum A. Additionally, the Board should encourage lenders to develop programs that only state and verify assets, while omitting the use of “stated income” as a qualifying factor as the case may be appropriate.

For example, a borrower who is newly self-employed should be encouraged to provide a verification of assets they have in reserve as opposed to being encouraged to over-state their non-existent income on the loan application. Lenders in these cases should have the option to allow loan proceeds to be used as part of the verified reserves on a cash-out refinancing as some borrowers may wish to tap into their home equity through refinancing rather than being forced to immediately sell their home under unfavorable market conditions. Lenders should be allowed to lend money to these borrowers, even without any stated income, if other compensating factors are present such as a fair amount of cash reserves. This approach would empower lenders to avoid incurring unnecessary legal liability when making loans to disadvantaged borrowers. It would also curtail the widespread use of “stated income” programs in cases where the borrower is seemingly left with no practical choice but to lie on their loan application or forego the opportunity to buy a home or refinance their loan.

Borrowers should be empowered to make their own choice to get into the loan as long as they know what they are getting into and that they are paying a higher interest rate than may otherwise be available. (See the language in our proposed Section #5 “Affordability Disclosure” in Addendum A). Lenders and borrowers can then make their own determination as to how much risk they are each willing to take based on the circumstances.

This approach would support the American free market atmosphere while eliminating the common practice among lenders and borrowers to overstate income on loan applications in order to meet lender guidelines. The Board should also consider adopting this approach in the Prime lending market. Over-stating income on loan applications is unfortunately a

common practice in that market as well. This flexibility would encourage honesty in mortgage lending and enable financing options for:

- Homeowners who receive funds from friends and relatives in order to make mortgage payments (such as minority or immigrant households that pool funds in order to buy a “family” home)
- Homeowners who are self-employed or who otherwise have multiple, fluctuating and/or unusual sources of income
- Homeowners who want to verify certain assets, but not income due to privacy concerns

### **Prepayment Penalties – Sections 226.32 and 226.35:**

The Board proposes to strengthen the statute’s income verification requirement. We don’t believe this is a good idea for the reasons outlined above in our commentary on stated income loans. Here are some additional comments on the Board’s prepayment penalty proposals:

The idea of requiring a prepayment penalty to expire prior to the expiration of an interest rate is noble and may be plausible if the initial interest rate is fixed for a period of time (such as 2 or 3 years). However, this provision would effectively ban prepayment penalties on loans where the interest rate starts out as a monthly adjustable or an annual adjustable. Therefore, borrowers would be limited in their options and forced into higher interest rates / margins on their adjustable rate mortgages due to the lack of prepayment penalty options. Lenders typically charge lower interest rates and/or margins for loans with prepayment penalties because they are guaranteed a certain income stream/profit margin for a certain period of time. Eliminating this pricing flexibility would drive up costs for all sub-prime and Alt-A borrowers who choose monthly or annual adjustable rate mortgages by forcing lenders to charge higher interest rates and margins on all these loans across the board. While sub-prime borrowers are unlikely to choose monthly or annual ARMs, many Alt-A borrowers may choose monthly or annual adjustable rate mortgages and this provision would drive up borrower costs if implemented in the Alt-A arena.

Additionally, the same-creditor restriction is probably ineffective for the most part because most of these types of loans are originated by brokers and/or sold on the secondary market by the lender that originated the loan. Therefore, these originators would still have the ability to strip the homeowner of equity through unscrupulous origination practices notwithstanding this provision.

A better proposal than the pre-payment rules proposed by the Board would be to:

- Better police broker and lender advertising practices as outlined in the Board’s proposed rules subject to our comments herein
- Prohibit complex prepayment penalty structures that are difficult for consumers to understand (such as 6 months interest on 80% of the balance) and only allow simple pre-payment penalties that are expressed and disclosed up front as both a percentage of the loan amount and as a dollar amount

- Make clear to consumers that they are not obligated to accept a loan with a pre-payment penalty and the lender must present them with other options

These more simple terms can be better understood by borrowers with language similar to the “Prepayment Penalty Disclosure” outlined in Section #4 of Addendum A. This approach can also be carried into the Prime and Alt-A markets as pre-payment penalties are widely misunderstood in those markets as well.

### **Broker Compensation / Anti-Steering 226.36(a):**

The Board proposes to regulate the way that mortgage brokers are compensated. The cause is noble, but the methods proposed are inadequate and don’t correlate with helping the Board achieve its stated goals of protecting consumers while promoting responsible lending practices and relevant transaction-specific disclosures early in the mortgage process.

A better alternative would be to adapt a simplified disclosure/agreement between brokers/lenders and borrowers with language similar to the “Compensation / No Agency Disclosure” outlined in Section #6 of Addendum A. Results of this much more simple solution would be:

- Consumers would understand in no uncertain terms that their broker / lender is not their agent.
- Consumers would understand in no uncertain terms that their broker/lender makes a bigger profit at the consumer’s expense in terms of the higher interest rate / commissions associated with the way they have priced the loan.
- Consumers would be advised to consult with qualified tax, legal or investment advisors for specific tax, legal or investment advice regarding the impact of this mortgage transaction on their personal financial situation.
- The three points listed above would address the concerns voiced by the Board in terms of borrowers relying on their broker for advice.
- The playing field would be leveled between brokers and bankers (bankers from management down to the originator have just as much incentive to make a profit on higher priced loans as brokers). This is especially important under current market conditions as the industry is rapidly shifting (and will continue to shift) towards a retail business model vs. a wholesale model with many former-brokers now starting to work for banks.
- The proposed “Home Mortgage Summary Disclosure Form” (Addendum A) with specific compensation should be signed up front at point of application and again at closing so that changes can be tracked by enforcement agencies when evaluating whether a broker/banker is engaging in a pattern of deception or bait-and-switch tactics.
- This solution is applicable throughout the entire industry in the sub-prime, Alt-A and prime markets.

Even with this disclosure, one concern needs to be addressed more adequately: How can bait-and-switch tactics be discouraged even further in ways that will not reduce broker incentives to “shop” the mortgage loan to the benefit of the consumer?

For example, a broker needs to know that they aren’t wasting their time working to structure a difficult loan for a customer who is planning on leaving them if they find a deal that’s only an .125% better resulting in a savings of \$8/month. A consumer needs to know they are dealing with a broker who isn’t going to take advantage of them with bait and switch tactics. In short, the broker is looking for loyalty, and the consumer is looking for honesty. These are character issues and it is impossible to “legislate morality”.

The United States has a free market economy and lenders/brokers take risks in working with consumers, while consumers also take risks in working with lenders/brokers. Rather than having the Federal Government attempt to “legislate morality” with the proposed rules, it may be worthwhile to consider this issue in the context of overall mortgage industry reform, such as requiring licensing and continuing education for all individual mortgage salespeople.

Additionally, mortgage fraud should be narrowly defined by federal rules in a way that is enforceable with federal fines and penalties. Brokers and bankers should be held liable for the fraud and misrepresentations they make to consumers (as tracked by patterns in the differences between the initial and final disclosures signed by borrowers as part of our proposed Addendum A). This is where many of the sub-prime and other problems could have been avoided. The government should enforce anti-fraud rules with fines, license revocations and jail time. This can be further enhanced and reinforced by having states require mandatory continuing education and certification for all loan originators (both bankers and brokers).

- The states / federal government would approve various private sector certification providers
- Certification providers would be charged with reporting ethics violations to the states / federal government
- The states / federal government would have the power to revoke licenses, levy fines and jail the violators

This strategy could be implemented in accordance with and under the jurisdiction of the federal Mortgage Origination Commission as proposed in the Treasury’s recently released [Blueprint for a Modernized Financial Regulatory Structure](#).

This simple process would effectively shift many costs of enforcement to the private sector while the government retains control of the standard-setting process by regulating disclosure requirements and approving the certification providers. Borrowers would be left to choose which originator they want to work with based on the certifications, standards and financial philosophies to which the originator adheres. Consumers would remain in the driver’s seat and everyone avoids the expense and confusion of having courts, legislatures and regulators decide for consumers which financial strategies are most suitable for them.

## **Misleading Comparisons in Advertisements – Section 226.24(i)(2):**

We agree with the Board that comparisons based on the assumed refinancing of non-mortgage-debt into a new home-secured loan should not be prohibited or covered by this section. Although debt-consolidation can be harmful to some consumers, it is beneficial to many others. Banning debt consolidation comparisons or otherwise regulating or including debt consolidation in these rules would bring undue liability and compliance costs to the industry without a corresponding benefit to consumers.

## **Misleading Claims Suggesting a Fiduciary or Other Relationship – Section 226.24(i)(6):**

The language in this provision seems to be unclear and ambiguous, leaving room for interpretation. What if the mortgage broker or banker's company name is "XYZ Mortgage Advisors" or some such thing? Would these companies be obligated to change their names? What if a mortgage salesperson has attained a certain level of education or certification that qualifies them to give better mortgage-related advice than another mortgage salesperson who has not undergone extensive training and certification? Would mortgage salespeople be prohibited from marketing their credentials unless they charge fees for advice vs. earning commissions on the sale of mortgage products? Furthermore, the mortgage is often someone's single largest debt and their home is often their single largest investment. Consumers will always rely on competent mortgage professionals for "advice" and an outline of available mortgage options that are available through their firm. This is true whenever any individual buys any product or service that they may not be as familiar with as the person actually selling the product. Perhaps it would be better to clarify this provision to include these elements:

- Require that mortgage salespeople generically identify themselves while allowing a safe harbor for titles and designations actually earned by the individual. For example, CMPS or Certified Mortgage Planning Specialist would be allowed if the individual has actually earned the certification. On the other hand, as the Board proposed, the generic terms of "counselor" or "financial advisor" would not be allowed because they imply a certain level of expertise or certification that has not been earned and also because they implies a certain advisory relationship that does not exist.
- Ban the use of titles and certifications unless they are in fact "earned" by the individual advertising the title or certification. The safe harbor should require that qualifying certifications and titles require their certifiants to:
  - Pass a qualifying exam and/or demonstrate a certain level of industry experience or expertise
  - Adhere to code of ethics and/or standards of practice
  - Meet annual continuing education requirements
- Notwithstanding any earned titles and certifications, if an individual is not a tax, legal or investment fiduciary, we agree with the Board that no fiduciary relationship should be implied in marketing materials. Therefore, we propose that a short phrase should be required in all mortgage advertising that specifically states:

- “\_\_\_\_\_ is not your agent and is not legally obligated to give you objective financial or mortgage advice. Please consult a qualified tax, legal or investment advisor for specific tax, legal or investment advice.”

**About CMPS®:**

CMPS Institute administers the Certified Mortgage Planning Specialist (CMPS®) designation for financial professionals who provide mortgage and real estate equity advice. The certification is administered through live training, self-study, examination, and annual continuing education requirements. Over 4,000 mortgage bankers and brokers have voluntarily embraced the CMPS® certification and adhere to our professional standards of practice and code of ethics. For further comments or consideration of these and other related topics, please contact:

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Respectfully submitted,

CMPS Institute

[ADDENDUM A]



**Home Mortgage Summary  
Disclosure Form  
(SAMPLE)**

**#1 – General Mortgage Terms**

[example]

	%	\$
<b>Mortgage Balance</b>		<b>\$200,000</b>
<b>Mortgage Interest Rate*</b>	<b>6.500%*</b>	
Points	(2.000%)	(\$4,000)
Other Closing Costs (Appraisal, title insurance, etc.)	(1.600%)	(\$3,200)
<b>Total Points and Costs*</b>	<b>(3.600%)*</b>	<b>(\$7,200)*</b>
Total Prepaid Items (Escrows, Taxes, etc.)		(\$4,000)
<b>Monthly Mortgage Payment**</b>		<b>(\$1,083)**</b>
Monthly Taxes and Insurance		(\$400)
<b>Total Monthly Housing Expense</b>		<b>(\$1,483)</b>

\*  The interest rate and costs can change based on the information contained below [check if loan is not locked, has a variable interest rate or the initial payments are not fully amortized]

\*\*  These payments can change based on the information contained below [check if loan is not locked, has a variable interest rate or the initial payments are not fully amortized]

**#2 - Interest Rate Information**

Fixed – mortgage rate is fixed for the entire term of the loan and will never change. If I am unable to afford my mortgage payments, I might lose my home through the foreclosure process.

- Variable - mortgage rate is variable and will change periodically
- Initial interest rate will last for \_\_\_\_\_ months before changing
  - When the rate changes in month # \_\_\_\_\_, my payments will also change. At that time:
    - The interest rate on the mortgage would be determined by adding my margin of \_\_\_\_\_ to the \_\_\_\_\_ index

- The current value of the index is \_\_\_\_\_; so if the interest rate on my home loan were to adjust today, my fully indexed mortgage rate would be \_\_\_\_\_. However, this index does fluctuate frequently and it could be higher or lower in month #\_\_\_\_\_ when my interest rate adjusts for the first time.
  - \_\_\_\_\_ Index (this number fluctuates)
  - + \_\_\_\_\_ Margin (this number does not change)
  - = \_\_\_\_\_ Fully Indexed Mortgage Interest Rate
- The worst case scenario for the first adjustment is that in month #\_\_\_\_\_ my interest rate would be \_\_\_\_\_ and my monthly payment would be \_\_\_\_\_. If I am unable to refinance or afford my new higher mortgage payments, I might lose my home through the foreclosure process.
- In month # \_\_\_\_\_, when my interest rate changes, it will remain at that level for \_\_\_\_\_ months before changing again.
- At every subsequent interest rate adjustment, the interest rate would be determined by adding my margin of \_\_\_\_\_ to the \_\_\_\_\_ index as demonstrated above, subject to the following caps:
  - \_\_\_\_\_ first cap – my interest rate will never fluctuate more than \_\_\_\_\_% above my initial rate at the first adjustment. Therefore, my interest rate at the first adjustment will not be higher than \_\_\_\_\_%.
  - \_\_\_\_\_ periodic cap – my interest rate can never fluctuate more than \_\_\_\_\_ % up or down per every adjustment after the first adjustment
  - \_\_\_\_\_ lifetime cap – my interest rate will never fluctuate more than \_\_\_\_\_% above my initial rate throughout the entire life of the loan. Therefore, my interest rate will never be higher than \_\_\_\_\_%

Locked – interest rate is locked until \_\_\_\_\_ [date]. My loan must fund by this date in order for my interest rate to remain valid. If my loan fails to fund by this date, I understand that my interest rate and payments can change based on the market interest rates available at that time.

Floating – interest rate is floating and is not currently locked. I understand that my interest rate and payments can change before closing based on the market interest rates available at that time.

### **#3 – Amortization and Payment Type:**

**Amortized** – mortgage balance will decrease slightly with each payment I make as each payment includes both principal and interest

**Interest Only** - mortgage balance will remain the same throughout the interest only period unless I choose to make extra principal payments

- Initial interest only payments are allowed for \_\_\_\_\_ months

- My payments will increase in month # \_\_\_\_\_ to include both principal and interest payments.

**Deferred Interest** – mortgage balance can increase if I choose to make the minimum monthly payment of \$\_\_\_\_\_ because the minimum payment may not cover all the interest is being accrued on the loan.

- Under no circumstance will my mortgage balance exceed \_\_\_\_% of the original loan amount or \$\_\_\_\_\_
- Once my mortgage balance reaches the cap of \$\_\_\_\_\_, I will no longer be eligible to make the low minimum payments and the loan will “recast.” Recasting means that my minimum monthly payments will increase dramatically as I begin paying back the mortgage principal over the remaining term of the loan. For example, if the loan recasts in month number \_\_\_\_\_, I will need to repay the mortgage based on a \_\_\_\_\_ month amortization schedule. At that time, if my loan balance is \$\_\_\_\_\_ and the fully indexed interest rate on my loan is \_\_\_\_\_%, my mortgage payments would increase to \$\_\_\_\_\_. However, the payments could even be higher at that time if I have a variable interest rate. If the mortgage balance does not reach \$\_\_\_\_\_ before month #\_\_\_\_\_, my loan will automatically recast at that time.

#### **#4 – Prepayment Penalties:**

Lenders sometimes charge pre-payment penalties if extra principal payments are made. Loans with pre-payment penalties typically carry interest rates that may be lower than loans without pre-payment penalties. Under no circumstance do I have to accept a pre-payment penalty, and I hereby certify that the mortgage lender did give me the option of choosing a loan without a prepayment penalty.

I am choosing a loan that DOES NOT carry a prepayment penalty. There will be no pre-payment penalties if I make extra principal payments, refinance the mortgage or sell my home.

I am choosing a loan that DOES carry a prepayment penalty. There will be a pre-payment penalty if I:

- Make principal payments that exceed \_\_\_\_% of my mortgage balance in given year
- Refinance the mortgage
- Sell my home

The penalty will expire in month # \_\_\_\_\_. Otherwise, the penalty will work as follows:

- Year #1 \_\_\_\_\_% of the mortgage balance or \$\_\_\_\_\_
- Year #2 \_\_\_\_\_% of the mortgage balance or \$\_\_\_\_\_

- Year #3 \_\_\_\_\_% of the mortgage balance or \$\_\_\_\_\_

### **#5 – Affordability Disclosure:**

In lending me money, the mortgage lender relied on my representations that I will be able to afford my payments and repay the mortgage according to the terms outlined above. If I am unable to afford the mortgage payments, I understand that I could lose my home through the foreclosure process.

**Full Documentation** – I fully documented all the income and assets that the lender relied on in making their decision to lend me money. If I have only documented my assets, the lender is counting on my being able to afford the mortgage payments based on the assets that I have verified. I understand that making a false statement on a loan application is a federal offense. I have an obligation to report such misconduct to the federal government if my lender/broker coerced me to make false statements on a loan application. I hereby certify that the lender/broker did not coerce me to overstate my income or assets for purposes of qualifying for the mortgage loan. I also certify that the information in my loan application is true and accurate to the best of my knowledge and I did not deceive the lender, make false statements on my loan application or falsify any income or asset verifications.

**Partial or No Documentation** – I partially documented the income and assets that the lender relied upon in making their decision to lend me money. If I have only documented my assets, the lender is counting on my being able to afford the mortgage payments based on the assets that I have verified. I understand that making a false statement on a loan application is a federal offense. I have an obligation to report such misconduct to the federal government if my lender/broker coerced me to make false statements on a loan application. I hereby certify that the lender/broker did not coerce me to overstate my income or assets for purposes of qualifying for the mortgage loan. I also certify that the information in my loan application is true and accurate to the best of my knowledge and I did not deceive the lender, make false statements on my loan application or falsify any income or asset verifications.

Additionally, I fully recognize that the interest rate and terms of my loan could be better if I fully documented my income and asset information. I am choosing not to do so for purposes that could include privacy and/or complexity of my personal financial situation and the lender is respecting my wishes while charging me a higher interest rate and/or higher costs on my loan.

### **#6 – Compensation / No Agency Disclosure:**

My banker or broker is not my agent or representative. They are in the business of making loans for a profit and are not legally obligated to give me the lowest interest rate or costs. Further, my banker or broker is not legally obligated to give me objective financial or mortgage advice. I hereby certify that I have been advised to consult with a qualified tax, legal or investment advisor for specific tax, legal or investment advice regarding the impact of this mortgage transaction on my personal financial situation. Additionally, my banker or broker made me aware of certain options available through their firm, and I have willingly



## [ADDENDUM B]

[2 yr Interest Only ARM Sample Ad]

# Announcing the Affordable Home Sale!



**Price:** **\$200,000**  
**Down Payment:** **\$20,000**  
**Monthly Payment:** **\$1,125\***

**\*Financing Terms:**

- Loan Amount - \$180,000
- Interest Rate - 7.5% Variable Interest Rate that is fixed for 2 years adjusts in month #25 and every year thereafter
- Payment Type - Interest only; payments will increase in month #25 when the interest rate adjusts, and also every year thereafter; principal payments are required in month #121 and this will further drive up the required monthly payment
- Total Costs - \$4,200 in total points and closing costs required in addition to the down payment – PAID BY SELLER!
- Taxes and Insurance – Approx. \$2,000 required at closing and approx. \$300/month thereafter in addition to monthly mortgage payment
- Subject to credit approval, other terms and conditions apply, other financing options available

Financing Offered by:  
**XYZ Mortgage Company**  
**888.888.8888**

**[ADDENDUM C]**

**[Option ARM / Negative Amortization Sample Ad]**

**Announcing the Affordable Home Sale!**



**Price: \$200,000**  
**Down Payment: \$20,000**  
**Monthly Payment: \$600\***

**\*Financing Terms:**

- Loan Amount - \$180,000
- Fully Indexed Interest Rate - 7.6% Variable Interest Rate that adjusts every month
- Payment Type – Deferred Interest; payments do not cover all the interest owed on the loan and mortgage balance will increase each month. Minimum payments will increase at least once every year; Payments will dramatically increase once principal payments are required in month #60 or even sooner, depending on when the mortgage balance reaches the limit of \$207,000.
- Total Costs - \$4,200 in total points and closing costs required in addition to the down payment - PAID BY SELLER!
- Taxes and Insurance – Approx. \$2,000 required at closing and approx. \$300/month thereafter in addition to monthly mortgage payment
- Subject to credit approval, other terms and conditions apply, other financing options available

Financing Offered by:  
**XYZ Mortgage Company**  
**888.888.8888**