COMMENTS

On

PROPOSED INTERAGENCY
STATEMENT ON SUBPRIME MORTGAGE LENDING

72 Fed Reg. 10533 (March 8, 2007)

May 7, 2007

VIA ELECTRONIC MAIL

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May 7, 2007

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Dear Director Reich, Chairwoman Bair, Chairman Bernanke, Comptroller Dugan, Chairwoman Johnson, and Mr. Milner:

The undersigned civil rights, consumer, housing and community groups, as well as responsible mortgage lenders, commend the agencies for issuing the Proposed Statement on Subprime Lending in conjunction with the Nontraditional Mortgage Guidance you issued in 2006. The proposed Statement recognizes that the risks presented by subprime hybrid ARMs are as great as those presented by the nontraditional, primarily prime products encompassed in the prior guidance. Indeed, the risk to homeowners and the market is likely greater, given the combination of riskier loan characteristics and more financially stretched borrowers in the subprime market. We are hopeful that the Statement will curb abuses associated with the severe payment shock and increased risk of foreclosure that these inadequately underwritten loan products pose.

The current crisis in the subprime market belies the argument that regulation is unnecessary because the market itself will “correct” abuses once they go too far. This is an instance of market failure in which perverse market incentives have rewarded irresponsible lending practices and have made it more difficult for responsible lenders to compete. Any market correction will be too late to save the homes of hundreds of thousands, if not millions, of families, and the home equity wealth of communities across the country whose house values will be devastated by concentrated foreclosures.

In addition, without strong regulatory guidance, these abuses are certain to be repeated with risky loans being offered to existing borrowers who refinance into new subprime loans, as well as to future borrowers who have thus far been spared this fate. In fact, a review of five mortgage-backed security offerings from the first quarter of 2007 reveals that loans continue to be dominated by the loan terms that have been shown to dramatically increase the risk of foreclosure. Indeed, these types of loans are the subject of the Statement itself – 82% are still hybrid ARMs, generally with two-year resets underwritten only to the teaser rate; 43% are stated income loans; and lenders continue to fail to escrow for taxes and insurance.

We urge you to finalize your Proposed Statement on Subprime Lending without any weakening of the essential underwriting components so that originators will return to more responsible underwriting practices and borrowers will have a fighting chance to receive loans that will provide sustainable homeownership opportunities. It is critical for subprime borrowers that an institution’s analysis of repayment capacity truly reflects a loan’s long-term affordability.

We therefore urge, at a minimum, preservation of the key elements of this statement, without any weakening of standards. To the extent possible, we also urge strengthening its core components, especially the ability to pay standards, verification of income language, and requiring escrow of property taxes and hazard insurance. Several of the undersigned organizations have submitted detailed recommendations on how to address these outstanding concerns.

We also ask that the Conference of State Bank Supervisors take similar action for state-regulated entities.

Thank you for your consideration of our requests.

Sincerely,

AARP
Center For Responsible Lending
Central Illinois Organizing Project
Coalition of Community Development Financial Institutions
Consumer Action
Consumer Federation of America
Leadership Conference on Civil Rights
National Association for the Advancement of Colored People
National Association of Consumer Advocates
National Coalition for Asian Pacific American Community Development
National Consumer Law Center (On behalf of its low-income clients)
National Community Reinvestment Coalition
National Council of La Raza
National Fair Housing Alliance
National Lawyers’ Committee for Civil Rights Under Law
National NeighborWorks Association
Opportunity Finance Network
U.S. PIRG