CONSUMER MORTGAGE COALITION

August 15, 2006

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Comments on Issues Relating to the Home Equity Lending Market; Board Docket No. OP-1253 (71 Fed. Reg. 26513 May 5, 2006)

Dear Madam:

The Consumer Mortgage Coalition (CMC), a trade association of national mortgage lenders, service and services providers, appreciates the opportunity to submit comments on the issues raised by the Board of Governors of the Federal Reserve System (Board) in its recent hearings on the home equity lending market, held pursuant to Section 158 of the Home Ownership and Equity Protection Act of 1994 (HOEPA), focusing on the adequacy of existing regulatory and legislative provisions for protecting the interests of consumers, particularly low-income consumers.

The Board's questions focus on four key topics:

(1) Whether the Board's 2002 changes to the HOEPA regulations and the continued proliferation of state and local predatory lending laws have curtailed predatory practices or impacted the availability of subprime credit; and what efforts are necessary to better educate consumers about such predatory practices?

(2) Whether consumers have sufficient information about so-called nontraditional mortgage products to understand the risks associated with such products?

(3) As a more general matter, whether current disclosures sufficiently educate consumers about the borrowing process (including the role of the mortgage broker) and their options in the mortgage market; and what strategies or practices have successfully been employed to help consumers in this process?

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(4) Finally, what explains the differences in borrowing patterns among racial and ethnic groups? Specifically, do factors other than differences in credit history and other underwriting factors, play a part in this differences?

1. What is the Impact of the Board's 2002 HOEPA Regulatory Changes and State and Local Predatory Lending Laws on Predatory Practices and Availability of Credit? What Efforts Are Necessary to Educate Consumers About Predatory Practices?

The CMC shares the Board's concerns about borrowers being protected from any abusive practices. The CMC was formed over a decade ago, in large part, to pursue reform of the mortgage origination process. From our perspective, one of the principal goals of mortgage reform is to streamline the mortgage origination process so that consumers would be better informed when making credit choices. Complementary to our goal of streamlining the mortgage origination process is the goal of reducing abusive lending practices. We believe that better disclosures and better education will enhance consumer protection by empowering consumers to make educated choices in the credit market. We share the Board's objective of developing approaches that prevent predatory lending practices, without restricting the supply of credit to consumers or unduly burdening the mortgage lending industry. An adequate supply of credit at relatively low cost has helped drive homeownership rates to their highest levels, and helped strengthen our economy.

We believe strongly, however, that abusive mortgage origination practices can best be prevented not by restricting credit terms, limiting options, and reducing the availability of credit, but by market-based solutions that improve disclosures, increase competition for settlement costs, promote the use of alternative underwriting systems, and educate and inform consumers to select appropriate loans and avoid unlicensed or unethical loan originators. In short, we should empower consumers to use the market and let market competition serve consumers. Moreover, to create greater availability for loans to all segments of our society, it is critical to have a viable secondary market for such loans.

In this regard, to the extent that the Board's changes to the HOEPA regulations expanded the coverage of HOEPA to apply to additional loans[1], we believe their impact was to reduce the availability of credit because there is virtually no outlet for those loans. The current law creates near absolute liability for assignees, since assignees are liable for "all

1 The Board's 2002 regulatory HOEPA changes broadened the scope of mortgage loans subject to HOEPA by adjusting the price triggers used to determine coverage under the act. The rate-based trigger was lowered by two percentage points for first-lien mortgage loans, and the fee-based trigger was revised to include the cost of optional credit insurance and similar debt protection products paid at closing. Other changes increased the limitations applicable to HOEPA loans. Except in limited circumstances, a creditor that has made a HOEPA loan to a borrower is generally prohibited for twelve months from refinancing any HOEPA loan made to that borrower into another HOEPA loan. Assignees holding or servicing a HOEPA loan are subject to similar restrictions. The changes also created a presumption that a creditor has violated HOEPA's prohibition on engaging in a pattern or practice of making HOEPA loans without regard to the consumers' repayment ability if the creditor generally does not verify and document such repayment ability. Finally, the HOEPA disclosures were expanded to specify, among other things, whether the total amount borrowed includes the cost of optional insurance.

claims and defenses" unless the assignee can show that it could not have reasonably discovered that the loan was even subject to HOEPA. The result of this potential liability is that the secondary market – and, consequently, the primary market – for loans subject to HOEPA has shrunk to almost nothing. Thus, by subjecting more loans to HOEPA's coverage, the likelihood is that those loans simply were not made.

Similarly, we believe the proliferation of state and local predatory lending laws also has generally restricted the availability of credit. Many of these laws have prohibitions that are more restrictive than HOEPA and thresholds that are lower than HOEPA. Many lenders, as a matter of policy, have decided not to make loans that cross any state high cost loan threshold. As these thresholds are lowered, fewer loans are offered and made, further shrinking the availability of credit. Many state laws exacerbate this low threshold issue by including prepayment penalties and yield spread premiums as part of the "points and fees" threshold.

This reduction in available mortgage options will prove particularly injurious to consumers as interest rates rise. Because of the recent low interest rates, many consumers have low-cost first mortgages. When these consumers need credit, they will want to keep their first mortgage and will seek a second (and smaller) mortgage. It will be very difficult for lenders to make enough of a profit to make smaller second mortgages if, for example, they are limited to charging points and other fees of less than 5% (which is the points and fees threshold for under several state high cost loan laws). Consequently, the availability of smaller secondary mortgages will decrease. As a result, many consumers will be forced to choose between high-cost credit card debt and refinancing their favorable first mortgage.

Even if a creditor wanted to make a high cost loan, many states place restrictions on terms of the loans that effectively put them out of reach for many borrowers. For example, a number of states limit the amount of the points and fees that the borrower may finance on a high cost loan, thus requiring the borrower to come up with cash at closing to pay these costs. Because many non-prime borrowers do not have ready access to cash to pay points or do not want to tap other illiquid assets, this restriction severely restricts the availability of these higher cost loans.

State and local laws also erect a variety of different restrictions on the making of high cost loans, including ambiguous "ability to repay" or "net tangible benefit" standards that are extremely difficult to implement from a compliance standpoint. These provisions invite challenges because of the steep penalties involved, and often subject both the lender and a secondary market purchaser to potential liability.

There have been studies showing that state predatory loan laws restrict the availability of credit, and it is logical that this is the case. When borrowers have fewer options to obtain loans, and lenders and investors face increasing compliance costs and risks in making loans available, fewer loans will be made.[2]

[2] The study commissioned by the Mortgage Bankers Association, "Mortgage Lending in North Carolina After the Predatory Lending Law," prepared by Abt Associates Inc. (Sept. 2004), which found that overall

Advantages of Uniform, National Rules

Because of the significant compliance burdens of dealing with an ever-expanding patchwork of diverse state and local predatory lending laws, and because we believe such patchwork at best provides uneven protection for consumers, the CMC has long supported clear, uniform, national rules to ensure a level playing field for both industry participants and consumers. Mortgage lending is a national industry where it is routine for lenders to lend in multiple states, for loans and loan servicing rights to be transferred across state lines, and for pools of loans from around the country to be assembled and placed in securities which are sold on the national capital markets. Consumers should have the same protections in the national market, whether they are in Maine or California, and lenders and servicers should operate under the same rules across the country. However, the industry and consumers will benefit from uniform, national rules only if the rules are clear and easily understandable, compliance can be achieved through reasonable effort, and the rules strike the proper balance between preventing abusive lending practices and fostering competition and innovation in the marketplace.

The need for uniformity in mortgage regulation has never been greater. Today, over 30 states have their own anti-predatory lending law, which are extremely diverse with different triggers, restrictions and requirements. A growing number of cities and counties have also passed their own laws. In Chicago, lenders have to deal with overlapping state and local regulations enacted by three jurisdictions, the City of Chicago, Cook County, and the State of Illinois, as well as the federal HOEPA. States have widely differing provisions for assignee liability as well, which has interrupted the flow of secondary market transactions as the rating agencies refuse to rate transactions where the liability for investors is open-ended. It is extremely costly for a national or regional lender to create the systems necessary to comply with this patchwork of laws and regulations. And non-compliance, even if inadvertent, with this flood of differing, often conflicting and/or unclear restrictions can result in significant monetary losses and damage a lender's reputation for being deemed a "predatory" lender.

Educating Consumers About Predatory Practices

The Board also asked for comment on what efforts have been successful and what are yet needed to better educate consumers about predatory practices. The CMC believes that

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subprime lending decreased in North Carolina after the state passed its predatory lending law in 1999, summarized the other studies of the effect of that law as follows:

> "Several studies on the impact of North Carolina's anti-predatory lending law have been completed, in part because it is the state with the longest experience. Several different approaches have been taken, using various sources of data; however, all the studies have found that levels of subprime lending in North Carolina have declined relative to other states. One study concludes that this is a desirable outcome of the legislation; others use the same finding to point to a restriction in the flow of capital to higher-risk borrowers, most of whom would not have been victims of predatory lending." (MBA Study at p. 7).

consumer education is the most important element in a program to prevent predatory practices.

Most, if not all of our members, have devoted considerable resources to producing and making available educational materials for consumers that informs them how to avoid predatory practices, both in hard-copy brochures and on company websites. Numerous industry trade associations, consumer advocacy organizations, as well as federal and state regulators, have provided similar resources.

While those resources are very helpful to those who view them, they are not enough. They should be supplemented by a three-step program to increase public awareness of the potential for abusive practices and how to avoid them that will reach a broader audience of potential borrowers.

A. Public Service Campaign

First, federal policymakers should implement an ongoing, nationwide public service campaign to advise consumers, but particularly the more vulnerable such as senior citizens and the poorly educated, that they should seek the advice of an independent third party before signing any loan agreements. Public service announcements could be made on radio and television, and articles and notices could be run in local newspapers and selected publications. Given that people's homes are at stake, these messages should be every bit as pervasive as the anti-smoking public interest announcements that have frequently appeared in the media in the last several years.

B. Counseling Infrastructure

Second, consumers engaging in the loan process need to be able to avail themselves of counseling services from unbiased sources. Those sources can always include family and friends and industry participants. In addition, however, a nationwide network should be put in place to ensure that all consumers can easily access advice and counseling to help them determine the loan product that best fits their financial needs. A counseling infrastructure could be created that would include 1-800 numbers with independent counselors, using sophisticated computer software, to help consumers talk through the loan product they are considering. In addition, programs could be developed with community organizations and other organizations serving senior citizens to provide on-site counseling assistance at local senior and community centers and churches. HUD's 1-800 number for counseling could be listed on required mortgage disclosures as an initial step to increase awareness of available advice. We also believe it is important for counseling to be widely available after closing when a loan becomes or is about to become delinquent to help vulnerable consumers avoid unwise decisions in that context.

C. "Good Housekeeping Seal of Approval" for On-Line Mortgage Calculators

Third, the *Joint Report on RESPA and Truth in Lending Act* issued back in 1998 by HUD and the Board recommended that the government develop "smart" computer programs to not only help consumers determine the loan product that best meets their individual needs, but to also assist mortgage counselors in providing quality counseling services to consumers. Mortgage calculators or "smart" computer programs are now available online. Since these computer programs were already developed by the private sector and are widely available, a more appropriate role for the government today would be for the federal government to approve a limited and unbiased generic mortgage calculator module that could be incorporated into any online site that helps consumers and counselors evaluate various loan products.

This educational program on potential predatory practices should identify both those practices that are outright illegal fraud, such as misleading or false representations, as well as those loan terms and options, such as prepayment penalties and balloon features, that are not inherently predatory, but that borrowers may or may not wish to agree to, depending upon their circumstances. For example, such education should make clear that in the right circumstances, either of these optional loan structures – balloon feature or prepayment penalty - can benefit borrowers by allowing them to obtain lower-cost credit for which they would otherwise qualify. A balloon note can be particularly helpful to a borrower who expects to move to a new location within the period of the balloon mortgage. Such a mortgage would be less expensive than a fixed-rate, long-term mortgage loan for the consumer. Similarly, the benefits of a prepayment penalty, which are used by legitimate lenders to protect themselves against the risk that the borrower will prepay the loan before the lender has recovered its origination costs, can be passed on to the borrower in the form of lower points or a lower interest rate. If a lender is not allowed to offer a prepayment penalty option, then it may not be able to offer a zero- or low-closing-cost loan or it may have to increase its rates to be profitable. With sufficient education and information, borrowers can make an informed decision whether to make use of these features or elect to avoid them.

Finally, as discussed below, improved disclosures at the time a consumer is shopping and applying for a loan can significantly help in understanding predatory practices. For example, the CMC has recommended to the Department of Housing and Urban Development (HUD) that it update the "Special Information Booklet," that is made available to most borrowers under the Real Estate Settlement Procedures Act (RESPA) shortly after application, to include a detailed discussion of potentially abusive practices, and how to avoid them, including checklists and specific questions for the consumer to ask his or her mortgage broker or lender.

At this point we should note that we do not support additional "suitability" standards that some states are attempting to create that puts the lender in the position to having to determine what is in the best interests of the borrower. The lender underwrites the loan in accordance with its (and its investors') established underwriting criteria to ensure the borrower is able to repay the loan, but does not have the knowledge of all of the borrower's circumstances to make such a "best interests" determination. The CMC is convinced that both consumers and lenders are better served if lenders have the freedom to offer and consumers have the freedom to choose from the widest range of financial options. Consumers, however, must be put in a position to make an informed decision that is most appropriate for their needs and situation.[3]

2. Do Consumers Receive Sufficient Information About So-called Nontraditional Mortgage Products to Understand the Risks Associated with such Products?

The term "nontraditional mortgage products" refers to a variety of financing options that the mortgage lending industry has developed to increase affordability and otherwise meet the needs of borrowers. These products include flexible-payment loans that, at the borrower's option, allow no amortization or even negative amortization to reduce the initial payments. The term is also used to describe interest-only products that are often used by businesspersons and investors to improve their cash flow.

Mortgage lenders have a strong interest in ensuring that customers understand the risks and benefits of nontraditional products and how they compare with more traditional loans, and many have developed their own disclosures to supplement the information that must be provided under RESPA and the Truth in Lending Act ("TILA"), including the Consumer Handbook on Adjustable-Rate Mortgages ("CHARM") booklet. The CMC supports the concept of meaningful disclosures for *all* loans — not just nontraditional mortgage products — at an early stage of the mortgage process.

We note that TILA already requires extensive disclosures of loan terms for all adjustable-rate mortgages ("ARMs"), including the newer, more innovative products. *See* Regulation Z, 12 C.F.R. § 226.19(b). Among other things, TILA requires an extensive "program disclosure" for every ARM that explains the features of the loan product. TILA gives lenders the option, which most lenders choose, of providing a historical example that illustrates, for a hypothetical $10,000 loan, how payments and the loan balance would have been affected by changes in interest rates over the loan term. The example must reflect "all significant loan-program terms," including features such as negative amortization (including how a cap on negative amortization would have affected monthly payments) and discounted initial rates. *See* 12 C.F.R. § 226.19(b)(2)(viii)(A); *see also* Regulation Z, 12 C.F.R. § 226.5b(d)(5)(iii) (similar historical example for home-equity lines of credit).

The *content* of the program disclosure should be sufficient to give consumers a good picture of the likely impact of "nontraditional" features on their required payments. Unfortunately, however, the *form* in which the disclosure is delivered does not always

[3] As briefly referenced above, other important components of the CMC's recommended program to prevent unfair or predatory practices include (i) a nationwide licensing registry that will allow consumers to know whether the broker, lender, or loan officer they are dealing with has had its or his or her license revoked, suspended or otherwise put on alert in any state because of abusive or other illegal practices; (ii) the promotion of greater competition in the underwriting systems that are used to underwrite the vast majority of loans in this country, which will alleviate the problem of the dominance of the GSEs' systems, which, according to studies, are less flexible than other systems in considering compensating factors that would help disadvantaged borrowers qualify for conforming loans; and (iii) the devotion of adequate resources at both the federal and state government levels to enforce existing laws against fraud and other clearly illegal origination activities.

adequately highlight the key features that are most important to consumers in shopping for the best available product. The ARM program disclosure for most loans, including nontraditional mortgage loans, is generally a multi-page document, and it must be accompanied by the multi-page CHARM booklet. The result is often "information overload," in which consumers are overwhelmed with disclosures that are tangential to their shopping decision. As then-Acting Comptroller of the Currency Julie Williams noted in January 2005:

> I worry . . . that [the] approach [of mandating disclosures] is on the verge of breaking down, and if it's not re-focused, more prescriptive legislation and regulation could result. And it's reached that point not because consumers are getting too little information, but because they are getting *too much* information that's not what they're really after; and because the volume of information presented may not be *informing* consumers, but rather *obscuring* . . . what's most helpful to their understanding of financial choices.

Remarks by Julie L. Williams, Acting Comptroller of the Currency, before Women in Housing and Finance and The Exchequer Club, Washington, D.C., Jan. 12, 2005, at 2 (emphasis in original). Ms. Williams went on to characterize, as a "*critical element*" of the issuance of any regulation mandating disclosures, the need to "test . . . *how consumers interpret* particular disclosures and how to make disclosures *usable* to them." *Id.* at 5 (emphasis in original). As suggested by Ms. Williams, before any new disclosures are considered, they should be thoroughly tested in studies supervised by marketing professionals. The current TILA ARM disclosures are the result of a long process, in which Congress first mandated extensive worst-case disclosures and then cut back on those requirements in the face of evidence that, in addition to being burdensome to the industry, they were too complicated to be of much value to consumers. Despite that change, it is still a challenge for mortgage lenders to provide disclosures that are meaningful but still include all the information mandated by the regulation.

In considering whether to revise Regulation Z to address nontraditional products, the Board should not repeat the error of overwhelming consumers with information rather than providing simple and comprehensible disclosures. Moreover, singling out nontraditional mortgage products for special disclosures would be likely to convey the impression that these are especially risky and undesirable, compared to other products that may, in fact, not serve consumer's needs as well. Therefore, rather than introduce still more disclosures for certain product types, the Board should consider ways that simplifying current requirements could improve consumer understanding.

Another area in which simplification would be helpful to consumers is TILA's advertising rules. Regulation Z prohibits practices such as advertising rates that are not available and showing only an initial (often first month's) low interest rate without showing the annual percentage rate over the life of the loan. *See* 12 C.F.R. § 226.24(a) and (b). Unfortunately, the current "trigger" requirements of TILA make it so difficult to show all the required data that creditors avoid displaying any numerical information in their advertising. This has the effect of suppressing competition and limiting the information available to consumers, making it more difficult for consumers to understand their mortgage loan alternatives.

Finally, the Federal Trade Commission Act and existing federal banking agency regulations and interpretations, as well as state laws, already prohibit unfair and deceptive acts or practices ("UDAPs") or misleading advertising. To the extent that a practice is not addressed under the existing Regulation Z rules, it will often be covered by the broad prohibitions against UDAPs contained in existing agency issuances.

3. Do Current Disclosures Sufficiently Educate Consumers About the Borrowing Process (including the Role of the Mortgage Broker) and Their Options in the Mortgage Market? What Strategies or Practices Have Successfully Been Employed to Help Consumers in this Process?

The Board's hearings also focused on whether current disclosures sufficiently educate consumers about the borrowing process (including the role of the mortgage broker) and their options in the mortgage market. As noted above, we believe that educating and informing consumers of the way the mortgage process works and the available loan terms and choices that the borrower may make, is the best way to ensure that the borrower can shop and compare other products and ultimately get the loan product that best suits his or her needs.

The CMC has worked extensively over the past decade, together with other trade groups and advocates, to reform the mortgage disclosures provided to consumers both at the loan shopping stage and at closing. These efforts have been part of a broader plan to reform the restrictions of RESPA that prevent leverage and market competition from lowering mortgage settlement costs. With respect to disclosures, the principal goal has been to simplify the disclosures to allow consumers easily to shop and compare settlement costs among competing loan offerings.

Today, borrowers receive TILA disclosures that include the annual percentage rate (APR), the finance charge, the amount financed and total of payments, as well as a payment schedule and other disclosures about the loan. This disclosure is required with three days after application on purchase-money loans, although most lenders provide such disclosures at this time even for non-purchase-money loans. As noted above, consumers also receive an ARM program disclosure under Regulation Z if they are applying for an ARM loan. Borrowers of closed-end loans also will receive a Good Faith Estimate of Settlement Costs and a servicing transfer disclosure under RESPA, as well as privacy disclosures and credit report-related disclosures. Depending on the state, borrowers may also receive several additional state disclosures.

Consistent with the statements of then-acting Comptroller of the Currency Julie Williams above, studies have shown that the innumerable disclosures required by a variety of federal and state laws often confuse, and sometimes mislead, consumers who are attempting to shop for loans.

Mindful of the fact that any changes in mandated disclosures requires creates considerable costs in systems changes, training and implementation, the package of mandated disclosures provided to borrowers today can be simplified and improved. This includes mortgage broker disclosures, which, other than the disclosure of mortgage broker fees on the Good Faith Estimate and HUD-1 Settlement Statement, are largely state law disclosures. While individual lenders or brokers have on their own taken steps to provide more readable disclosures to their borrowers, including mortgage broker disclosures, the federal government has not yet done so. The CMC would be pleased to work with the Board on evaluating steps it could take to consolidate and simplify these disclosures. Such steps could be taken in conjunction with HUD's RESPA reform efforts and/or the Board's on-going review of Regulation Z.

(4) What Explains the Differences in Borrowing Patterns Among Racial and Ethnic Groups? Specifically, Do Factors Other than Differences in Credit History and Other Underwriting Factors Play a Part in these Differences?

Recent changes in the Home Mortgage Disclosure Act ("HMDA") regulations required reporting of pricing information. The 2004 HMDA data, which were the first reports under the new rules, show higher denial rates and a greater incidence of reportable "APR-spread loans" among some African American and Hispanic borrowers, as compared to other borrowers, as well as differences in borrowers' choice of lenders, with greater use of non-prime lenders by African Americans and Hispanics. There have been claims that these disparities are evidence of discrimination. Without information about the underwriting factors that lenders actually used, however, even the expanded HMDA data do not demonstrate that discrimination has occurred. Many components go into a pricing decision, which not only include underwriting factors that are not reported under HMDA, but also the dynamics of the market, which are influenced by both a lender's funding reserves at any given time and the borrower's specific choices as to loan terms. In addition, the APR spread, which is reported under HMDA, is an imperfect measure of the cost of the loan to the consumer. For example, the APR does not reflect many closing costs and thus does not take into account a borrower's decision to avoid closing costs by paying a higher rate.

The federal agencies that enforce the fair lending laws generally do not use HMDA data directly in enforcing these laws, because they acknowledge that the HMDA data do not include the factors actually considered in determining whether a loan is to be made and at what price. Most significantly, the data do not indicate the underwriting factors that are most important to the loan decision. In addition, there are many statistical issues that make it difficult to model lending behavior and negate any simplistic conclusions that might be drawn from HMDA price disparities. It is extremely difficult to capture all the factors that may have contributed to pricing decisions, especially when those factors include choices made by individual borrowers as to loan products, terms, loan amounts, and financing structures.

Studies that draw conclusions from HMDA and other loan data should be viewed cautiously and should be subjected to a peer-review process before their results are used as the basis for setting policy. A good example of the importance of careful review and analysis by experts is the expected increase in the proportion of loans whose prices are reportable under HMDA between 2005 and 2004. The federal regulators have recognized that this difference does not result from changes in lender practices but to changes in the interest-rate environment between the two years. *See* Federal Reserve Board, Federal Deposit Insurance Corporation, Department of Housing and Urban Development, Office of the Comptroller of the Currency, Office of Thrift Supervision, and National Credit Union Administration, "Frequently Asked Questions About the New HMDA Data, " (Apr. 3, 2006), available at http://www.federalreserve.gov/boarddocs/press/bcreg/2006/20060403/default.htm.

We note that the Financial Institutions and Consumer Credit Subcommittee of the House Financial Services Committee held a hearing on June 13th on the meaning of the pricing data collected recently under the Home Mortgage Disclosure Act (HMDA). Board Governor Mark Olson testified at the hearing. Of note in the testimony are the letters from the banking agencies to Rep. Barney Frank (D-MA) regarding their examination of the lenders who were referred to them by the Board following the Board's analysis of the 2004 HMDA pricing data. Most agencies indicated that their examinations are continuing and any final decisions are yet to be made, although the Office of Thrift Supervision (OTS) and the National Credit Union Administration (NCUA) indicated that, after their review, additional objective credit information used by their regulated institutions to price loans fully explained the disparities in the Board's analysis, leading to a conclusion that no evidence existed of unlawful discrimination.

Although the CMC believes that the evidence, on review, will indicate that disparate results are not related to discriminatory or abusive practices, there are many steps that may be taken to improve the experience of minorities in obtaining mortgage credit. Even when the HMDA data do not reveal discrimination or other illegal practices, there may be ways to reduce the disparities. CMC supports a market-based approach that would address this issue by improving competition and the flow of information to all borrowers, particularly minorities. Our approach would also address consumer education, a factor that would help minority and disadvantaged consumers manage their finances in a way that indicates high credit quality to lenders.

Reflecting their commitment to fair lending, our members have taken concrete steps to ensure that all applicants are able to experience the mortgage loan process without concern for illegal discrimination, including:

- Establishing clear policies at the highest levels of management requiring compliance with all fair lending obligations and refusing to tolerate any form of illegal discrimination in their lending or business practices by any of their officers, employees, or agents in serving their customers and potential customers;
- Implementing clear procedures to ensure all officers, employees, and agents comply with company policies regarding fair lending;
- Training their loan originators, call center operators, processors, underwriters, customer representatives and others with involvement in the consumer's loan process on the requirements of fair lending, and the importance of treating all applicants consistently, and with courtesy and respect;

• Communicating their fair lending policies to their agents, mortgage brokers, contractors and vendors who are involved in the loan process, including appraisers and closing agents;
• Ensuring marketing communications and materials reflect an inclusive potential customer audience and comply with all requirements for the Equal Housing Lender poster and logo;
• Making available information, guides, and easy-to-use tools to help prospective borrowers understand the mortgage process, the important terms of the loan, key disclosures, and calculators to help them shop for an affordable loan;
• Pricing loan products based on appropriate credit and risk-related criteria, without regard to race, national origin, or other prohibited factors;
• Monitoring call center operators and auditing loan files, to ensure consistent treatment of all applicants and borrowers;
• Establishing and maintaining systems and procedures to receive, analyze and quickly respond to any complaints regarding any alleged or potential discriminatory treatment;
• Ensuring consistent treatment of borrowers in all loan servicing activities;
• Making available tools and financial resources to increase financial literacy and credit awareness among the general population, to help inform the public of how credit scores can impact a person's ability to obtain mortgage credit, and how to enhance creditworthiness, and supporting community efforts to do the same;
• Creating and maintaining work environments that emphasize respect for all persons and promoting diverse workforces that will continue to reflect the values, aspirations, and spirit of our multi-cultural communities; and
• Working with community groups and national consumer organizations to develop outreach programs to make credit opportunities available to under-served segments of our society.

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The CMC appreciates the opportunity to comment on these important issues. Please call me at (202) 544-3550 with any questions or to arrange a meeting with our staff and/or members to discuss any of these topics.

Sincerely,

Anne C. Canfield
Executive Director