August 15, 2006

Jennifer J Johnson, secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue NW
Washington DC 20551

RE: Written comments about HOEPA

Delivered Via email through regs.comments@federalreserve.gov

The Division of Finance and Corporate Securities (DFCS) is part of the Department of Consumer and Business Services, Oregon's largest regulatory and consumer-protection agency. The division's mission is to encourage a wide range of financial services, products, and information for Oregonians, delivered in a safe, sound, equitable, and fraud-free manner.

We would like to address the Board's request on topics 2 and 3.

Topic 2 - Nontraditional Mortgage Products and Reverse Mortgages Interest Only Loans and Payment Option Adjustable Rate Mortgages:

Q-Do consumers have sufficient information (from disclosures and from advertisements) about nontraditional mortgage products to understand the risks (such as payment increases and negative amortization) associated with them?

While the diversification of non-traditional mortgage loan products started in the early 1990's, the proliferation and use of these alternative mortgage loans in Oregon is relatively new. The use of these products has removed many barriers to homeownership such as lack of credit, down payment or a poor credit history.

During 2005, this agency received 249 complaints from borrowers. Within those 249 complaints, the leading complaint was that loan terms were not properly disclosed. Although the agency does not have specifics about how many of those complaints related to these specialized products it could be assumed that not fully understanding the implications of having an interest only or adjustable rate loan could be detrimental to a borrower's income.

For example, the recent increase on interest rates have created a shock payment for borrowers who wanted to take advantage of the appealing features of interest-only and payment- option loans. The complaints refer to the borrowers' assumption that the percentages advertised or quoted were the interest rates used to amortize the monthly payments, rather than a calculated portion of the interest payment. Those borrowers choosing payment-option loans may not be aware that they must make additional payments to avoid an additional financial burden.

Routine examinations conducted by this agency also reflect a significant number of stated-income mortgage loans. The credit decisions on these loans rely heavily on the credit histories of borrowers, rather than their financial ability to repay the loan. Often the documentation included in the files for purposes of supporting the income does not match the information submitted with the Uniform Residential Loan Application form. It is not unusual to find discrepancies between the original loan application and the final document submitted to the lender.

For a financially unsophisticated borrower these features are appealing, especially if at the application stage this translates into an affordable monthly payment. Foreseeable changes in payments and amortization tables, or at least pro-forma tables that demonstrate the impact of changing rates**,** should also be made available to borrowers along with the disclosures as required under the Truth-in-Lending Act and the Real Estate Settlement Procedures Act.

According to the Q2 2006 U.S. Metropolitan Foreclosure Market Report released by RealtyTrac (www.realtytrac.com), the Portland – Salem is 25th in the nation for foreclosures. This represents 188% increase by comparison with the first quarter. There are no clear indications that this increase can be attributed solely to non-traditional mortgage loan products and the recent fluctuations in interest rates.

Topic 3 - Informed Consumer Choice in the Sub-prime Market:

Q-How do consumers who get higher-priced loans shop for those loans? How do they select a particular lender?

Financially unsophisticated consumers may be responsive to advertising that will ultimately make homeownership a reality, particularly those who have not taken advantage of financial counseling or home buying classes offered by non profit organizations.

There is significant advertising distributed from out of state entities, in many cases with logos and language with apparent relation to government institutions. These lenders who have obtained basic information from public records often target homeowners.

Q-What do consumers understand about the role of mortgage brokers in offering mortgage products? Has their understanding been furthered by state-required mortgage broker disclosures?

Commonly a mortgage broker is perceived by consumers as an individual or entity who will work in the consumer's best interest. While this is usually the case, there are some originators who steer borrowers to loan products not in their best financial interest, often in response to incentives such as undisclosed fees, pre-payment penalties and other loan features unclear to borrowers. In many cases borrowers do not understand the effect and purpose of Yield Spread Premiums.

Q-What strategies have been helpful in educating consumers about their options in the mortgage market? What efforts are needed to help educate consumers about the mortgage credit process and how to shop and compare loan terms and fees?

In Oregon, particularly in the Portland metropolitan area, ethnic and minority groups have recognized the importance of exposing diverse financial resources to consumers of a particular race or ethnic group. In the late 1990's, the first Latino home buying fair triggered interest on other minority groups to hold similar events.

These free public events expose consumers to financial institutions, Real Estate professionals and non-profit organizations. Simultaneously these events offer workshops and classes to encourage consumers to seek financial education. Classes are offered in a variety of languages. Home buying fairs represent a unique opportunity for consumers to "shop around" without having to commit to a specific real estate professional.

As the diversification of loan products continues, the ability of non-profits to adequately educate consumers becomes increasingly difficult. In many cases the financial education and credit counseling sessions offered by non-profits are focused on home buying opportunities with a lesser emphasis on homeowner retention and foreclosure prevention. The increase of post-purchase counseling opportunities for homeowners are needed to curve foreclosure rates.

Q-What are some of the "best practices" that lenders, mortgage brokers, consumer advocates and community development groups have employed to help consumers understand the mortgage market and their loan choices?

Each group represented by different associations have developed and maintain publications with the intent to help consumers make a sound and informed decision. These efforts can be futile if homebuyers face the barrier of affordability. On the other hand homeowners may face these barriers if they did not anticipate changes on their finances.

Q-What explains the differences in borrowing patterns among racial and ethnic groups? How much are the patterns attributable to differences in credit history and other underwriting factors such as loan-to-value? What other factors may explain these patterns?

In Oregon the home ownership gap is particularly prevalent in the African-American and Hispanic communities in comparison with the white population. In Portland, according to the 2000 U.S. Census, 38% of African-Americans own a home, 30% Hispanics are homeowners in comparison with 59% white and 55% Asian.

Providers of home buying counseling have continuously faced the challenges to identify specific issues relevant to the first two minority groups. Hispanics have the additional barrier which is often language and in some cases lack of immigrant documentation.