August 8, 2006

Attention: Ms. Jennifer J. Johnson
Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

RE: Docket no. OP-1253

Ladies and Gentlemen:

In Docket OP-1253 of the Federal Register, the Federal Reserve Board ("FRB") announced that it is holding hearings and has requested written comments on the Home Ownership and Equity Protection Act ("HOEPA") to assist its review of Regulation Z, which implements HOEPA. The goals of the hearings and comments are to assess the effectiveness of HOEPA in improving consumers' understanding of their mortgage terms and curbing abusive practices, while preserving access to credit.

Wells Fargo & Company and its affiliates ("Wells Fargo"), including Wells Fargo Bank N.A. and Wells Fargo Financial, Inc., appreciate the opportunity to provide written comments in response to the FRB's specific questions. Wells Fargo is a financial services company that owns and operates national banks in 23 Western and Midwestern states, is a leading originator of residential mortgage loans, and one of the nation's leading financial services companies. Wells Fargo is committed to mortgage lending that helps customers achieve financial success, to fair and responsible lending standards that exceed certain requirements of HOEPA or other laws, and to providing our customers with an appropriate product at an appropriate price.

The FRB has asked for comments on specific questions related to HOEPA and so-called predatory lending practices. Wells Fargo provides the following comments in response to the FRB questions:

Topic 1. Predatory Lending: The Impact of HOEPA Rules and State and Local Predatory Lending Laws

1. Have the revisions to the HOEPA regulations (12 CFR 226.32 et seq.) been effective in curtailing predatory lending practices? What has been the impact of these changes on the availability of subprime credit? Have other abusive practices emerged since the 2002 revision? If so, what are they?

The revisions to HOEPA have had the effect of limiting some lending practices, such as charging fees, interest rates, and costs above the HOEPA thresholds. Many lenders have adopted the HOEPA caps as a ceiling, and do not originate loans that exceed the HOEPA thresholds. Historically, Wells Fargo has not seen that HOEPA has had any significant negative impact on the availability of nonprime credit in a falling interest rate environment, and, in fact, nonprime credit has become more "commoditized" with certain responsible lending standards expected to participate in the secondary market for nonprime credit. In a rising interest rate environment, less credit may become available to borrowers with higher credit risks because lenders choose not to originate loans above the thresholds.

While Wells Fargo has not seen any new large-scale predatory scheme or practice emerge since 2002, it has watched the growth of mortgage products that may be more subject to abuse. Option ARMS and negative amortization products are easy to sell based on their low initial payments, and are an appropriate choice for certain consumers. However, some borrowers—such as those whose property values or incomes are not likely to increase enough to meet the additional expense of the potential increase in mortgage payments—can be misled into choosing one of these products where it is not the best fit for their needs.

2. What has been the impact of state and local anti- predatory lending laws on curbing abusive practices? Have these laws adversely affected consumers' access to legitimate nonprime lending? Have certain provisions been particularly effective, or particularly likely to negatively affect credit availability?

The substantial increase in state and local anti- predatory lending laws have not, from our viewpoint, had a significant impact on curbing abusive practices, as it is our belief that truly abusive practices tend to be conducted by individuals willing to ignore these and other laws. The state and local predatory lending laws have increased the cost of credit, as compliance with the myriad of laws and restrictions is very complicated. These laws have, in some instances, limited the availability of credit. This occurs as lenders cannot profitably lend at certain credit-risk levels where the appropriate price would exceed the rate and fee thresholds established by these laws, or because of the lack of a secondary market for loans with these criteria. Laws that require additional cumbersome processes, pass liability for compliance down to the ultimate investors, or invoke vague or complex standards for compliance are most likely to curb the availability of credit. To the extent that states enact anti-predatory lending laws, they should concentrate on licensing and regulating nonfinancial institutions and their subsidiaries and affiliates. Financial institutions are already subject to significant regulatory oversight and are very cognizant of, and guided by, legal and reputation risk concerns that arise from their lending practices.

3. Since 2002 revisions to HOEPA, what efforts to educate consumers about predatory lending have been successful? What is needed to help such efforts succeed?

Numerous impartial sources of information about home lending that provide education about the lending process and abusive lending practices are now available to consumers. These sources include the Department of Housing and Urban Development (HUD), the Mortgage Bankers Association, and various community groups. While publicity about predatory lending practices has increased public awareness, it has not done away with the reliance vulnerable consumers may place in an untrustworthy advisor who does not have a long-term interest in the consumer's financial success. Ongoing publicity and education will help reduce these occurrences, but it will never eliminate the ability of an unethical party to prey on the trust of a vulnerable consumer. Additional resources need to be dedicated to enforcement of existing consumer protection laws to remove illegal, unethical players from the market.

Responsible Lenders recognize the value of borrowers' having financial knowledge, and many are offering early counseling and financial literacy programs. For example, Wells Fargo offers a financial literacy program called "Hands on Banking®", and will soon begin offering its "Steps to Success℠" program, which will include education, tools and banking products designed to put nonprime mortgage customers on the path to financial stability.

4. Should the existing HOEPA disclosures in Regulation Z be changed to improve consumers' understanding of high-cost loan products? If so, in what way?

As indicated above, many lenders avoid triggering the high-cost thresholds, so they are not required to provide the high-cost disclosures. Because of the complexity of mortgage products and features that are offered today, such as complex adjustable rate products, the FRB should consider, in conjunction with HUD, revamping the disclosure regime under both the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). Since the time that both TILA and RESPA were enacted, the mortgage industry has changed dramatically. The disclosures, and the timing of the delivery of disclosures required under TILA and RESPA, should be revamped to better describe the nature of the mortgage products and features, such as option ARMS and negative amortization, and the costs of such products, including the impacts of discount points and prepayment penalties, so that the consumers may more easily understand their options, and the costs of such choices.

Wells Fargo agrees with suggestions to simplify the Good Faith Estimate and HUD-1 Settlement Statement by grouping fees into categories and simplifying the format of the Good Faith Estimate. In conjunction with such a change to the Good Faith Estimate and HUD-1 settlement statement, the FRB should consider simplifying the TILA calculations so that all closing fees would be included in the APR calculations. As many lenders treat fees differently for the purpose of the TILA APR calculation, this would cause more uniformity in the disclosures between lenders and would make them easier for consumers to understand and compare.

Topic 2: Nontraditional Mortgage Products and Reverse Mortgages

1. 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?

If a consumer carefully studies all the product information a lender provides, such as the ARM disclosures, a consumer should be able understand the features of a particular mortgage product. The agencies should develop uniform disclosures that are clear and understandable. With proper disclosure, a consumer should be able to choose products that are most appropriate for them. A product that is not appropriate for one consumer may be exactly what another consumer needs.

2. Should any disclosures required under Regulation Z be eliminated or modified because they are confusing to consumers, unduly burdensome to creditors, or are simply not relevant to nontraditional mortgage products? Do the required disclosures present information about nontraditional mortgage products in an understandable manner?

The current APR calculation with various fees included or excluded in the calculation could be streamlined to make the calculations more understandable. This could occur in conjunction with HUD's anticipated changes to the Good Faith Estimate and Settlement Statement formats.

As stated, if the consumer carefully studies all the product information a lender provides, such as the ARM disclosures, most should be able understand the features of a particular mortgage product. Wells Fargo and many other lenders already provide information over and above that required by law to explain their mortgage products and the choices a consumer may have.

3. Are there some Regulation Z disclosures that should be provided earlier in the mortgage shopping and application process to aid consumers' understanding of key credit terms and costs for these products?

Timing and content of disclosures should be reviewed in light of the new world of e-business. The time between application and closing is shortening, and the terms of the credit transaction are fluid so disclosure requirements should be flexible to permit the transaction to change as information is obtained and the consumer makes choices as to what loan features are desired. That being said, it would be very difficult for lenders to prepare a transaction-specific disclosure earlier than the current requirement for the initial truth-in-lending disclosure of no later than three business days after application. Any earlier disclosures could only contain generic, non-transaction specific information.

Reverse Mortgages:
1. Are current Regulation Z disclosures adequate to inform consumers about the costs of reverse mortgages and to ensure that they understand the terms of the product?

The current disclosure requirements are adequate to provide a consumer with all necessary information regarding a reverse mortgage, including the costs of the transaction, and the amount of credit available to the consumer. A consumer receives various disclosures, either required under TILA, by investors, or by state or federal law such as the Good Faith Estimate of Settlement Charges, a Truth in Lending Disclosure, the Total Annual Loan Cost disclosure, the Summary of Loan Terms and Benefits, an estimated amortization schedule, and the Consumer Handbook on Adjustable Rate Mortgages. There is no question that the product is inherently complex and some borrowers may not fully understand all aspects of the product. The current requirements are effective under these circumstances.

2. Has counseling (under the HUD program) been effective in educating consumers about reverse mortgages and in preventing abuses from occurring?

Current counseling is effective, but not perfect. The purpose of the counseling is to inform consumers of the reverse mortgage program features and other alternatives available; there are examples of counselors who direct consumers to particular programs or decisions, thereby defeating the purpose of the counseling. The effectiveness of the counseling can differ greatly depending on the actual counselor. HUD requires all HECM counselors to complete an education course and offers continuing education for trained counselors. HUD could improve the quality of the counseling available, and enhance the monitoring of counselors' performance.

3. In reverse mortgage that are not insured by HUD, is counseling offered to consumers? Do borrowers of theses loans have difficulty understanding their loan terms or encounter other difficulties? Do these lenders employ alternate disclosures approaches that have proven to be effective?

The primary reverse mortgage product is the HECM, which is insured by HUD. In addition, FNMA purchases a reverse product, the "Homekeeper," and other reverse mortgage products are originated and sold to private investors. The Homekeeper product and most private investors require consumers to obtain counseling prior to closing on a reverse mortgage. Most private investors typically require the same disclosure package as the HECM product.

Topic 3: Informed Consumer Choice in the Subprime Market

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

As a lender, Wells Fargo can categorize nonprime borrowers into at least two distinguishable categories. One group is made up of consumers with serious problems with their credit histories. Many of them come to the loan application process with a background of not having managed their finances well in the past. These prior difficulties appear to have resulted from mismanagement or lack of financial sophistication. These consumers also may be less likely to shop around for their loans. Various education programs previously referenced should continue to encourage these consumers to take more time to shop for these loans and to become educated about the process. Other consumers who choose nonprime loans are interested in the alternative underwriting available in the nonprime arena. They may be very sophisticated and seeking the best loan for their circumstances depending on their situation. They may have a bankruptcy from a business venture, or a high debt ratio but the ability to manage their credit, or they may not be in a position to document their income. Any or all of these features may put these borrowers into a nonprime loan but they are savvy consumers who make this choice.

2. 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?

From Wells Fargo's perspective as a wholesale lender that funds loans originated by mortgage brokers, consumers appear to have varying levels of knowledge about the roles mortgage brokers play in the transaction and often do not understand the difference between a broker and a lender. They are often unclear about the relationship between the lender and the broker. Broker disclosures have helped but have not eliminated the confusion.

3. 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?

The best strategy is to encourage consumers to become educated about the home buying process before they are consumed with the anticipation of owning a home and possibly prone to rely on the advice of an unscrupulous advisor. Numerous impartial sources of information about home lending and appropriate practices are now available to consumers, through sources such as the Department of Housing and Urban Development (HUD), the Mortgage Bankers Association, and various community groups. Lender financial literacy programs such as Hands on Banking, sponsored by Wells Fargo, also play a role.[1]

4. 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?

The various parties in the industry have all participated in their own ways to better educate consumers. Trade associations such as the Mortgage Bankers Association and the American Bankers Association have created web sites and programs designed to help consumers understand the home financing process. HUD and the FRB also have information for consumers on their web sites. Community groups offer homebuyer counseling. Lenders and realtors often partner with the community groups in offering consumer education and awareness programs such as "first-time homebuyer" classes. Wells Fargo offers financial literacy programs to help borrowers with their overall financial management. A premier example, referenced above, is Wells Fargo's Hands on Banking financial literacy program (www.handsonbanking.org). Another best practice is Wells Fargo's Steps to Success program, which will include education, tools and banking products designed to put customers on the path to financial stability. All of these can help a consumer better understand the mortgage process and the options that might be available. A final best practice worth mentioning is Wells Fargo's voluntary promulgation and adherence to a set of responsible lending principles for U.S. nonprime real estate lending. The principles, which are available in full on our web site at www.wellsfargo.com, spell out disclosure and other practices, including policies designed to offer prime pricing options to all customers who qualify based on their credit characteristics and the terms of their loan transaction.

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

For Wells Fargo, differences in pricing among various racial and ethnic groups are based on differences in risk. These risk factors include credit scores, loan-to-value ratios, overall level of indebtedness and the type of property, such as whether a residence is a single-family home or a condo. Wells Fargo is driven by our commitment to fair and responsible lending, and we are keenly aware that our continued growth depends on serving all customer segments fairly and responsibly. Wells Fargo's goal is to help as many people as possible achieve financial success through homeownership.

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[1] Wells Fargo's Hands on Banking curriculum is a complete financial education tool, which includes a chapter on understanding the financial fundamentals for homeownership. A growing number of states are establishing financial literary standards as part of their educational curriculums. Hands on Banking has been approved for use in schools by the Utah and Texas state boards of education and is listed as a resource for teachers in the seven other states.

Wells Fargo thanks the FRB for the opportunity to provide comments on HOEPA. If you have any questions or would like to discuss our comments, you can contact me at (515) 213-4572.

Sincerely,

David L. Moskowitz
Executive Vice President and General Counsel
Wells Fargo Home Mortgage

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