



August 14, 2007

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave. NW
Washington, DC 20551
Docket No. OP-1288

Re: Home Lending Market; Notice of Hearings
Docket No. OP-1288, 72 F. Register

Dear Ms. Johnson:

The Real Estate Providers Council, Inc. (RESPRO[®]) appreciates this opportunity to comment in connection with the public hearing on the Home Ownership and Equity Protection Act of 1994 (HOEPA)¹, the home equity lending market, and the adequacy of existing regulatory and legislative provisions protecting the interests of consumers.

RESPRO[®] is a national non-profit trade association of approximately 250 leading companies in the home buying and financing industry. Our members represent a cross section of the industry, including real estate brokerage companies, mortgage lenders/brokers, title insurers/agencies, vendor management companies, and other settlement service providers. RESPRO[®] members united in 1992 to promote an environment that allows providers to offer cost-efficient, innovative, and convenient services for home buyers and owners through strategic alliances across industry lines.

RESPRO[®] makes no comments with respect to current regulations under HOEPA not to issues were discussed in the public hearing held on June 14, 2007. However, we would like to place on the hearing record our views on present legislative provisions of HOEPA that unnecessarily discriminate against affiliated businesses in the home buying and financing marketplace, and how the impact of this discrimination could be significantly

¹ Pub.L. 103-325, 108 Stat.2160.

exacerbated if Congress expands the scope of HOEPA by lowering the thresholds that determine which loans are “high cost”.²

Unfortunately, HOEPA currently discriminates against affiliated businesses by counting ‘points and fees’ paid by the consumer to affiliated settlement service providers, but not to unaffiliated third parties, towards the “high cost” threshold.³ Therefore, a loan utilizing a settlement service of an affiliate would more likely be considered a “high cost” mortgage than a loan utilizing a settlement service of a third party.

This discrimination against affiliated companies would occur even if the affiliated settlement charge is lower than the unaffiliated charge. For example a \$1,000 charge for title insurance and \$300 charge for an appraisal in a particular loan transaction by an unaffiliated settlement service provider would not be counted as “points and fees”, while similar or even lower charges by an affiliated settlement service provider (e.g., \$750 for title insurance and \$250 for an appraisal) would count as “points and fees”.

Affiliated businesses in the mortgage marketplace over the last 20 years have consistently been proven to potentially increase competition and lower costs for home buyers and owners. Moreover, title services provided by affiliated companies are often priced either comparably with or lower than unaffiliated providers.⁴

If the threshold for “points and fees” is lowered to five (5%) percent, affiliated settlement service providers will not be able to participate in the settlements of certain loans without causing such a loan, which otherwise would not be, to be a HOEPA loan with all its attendant ramifications. This provision will most likely impact the smaller mortgage loans of first time buyers and would make one stop shopping unavailable to those

² HOEPA “high cost” loans with interest rates at 10% above the Treasury rate or with points and fees of more than 8% of the loan amount.

³ 15 USC 1602(aa)(C)(i)

⁴ The most recent economic study on the costs of affiliated vs. unaffiliated businesses was “Affiliated Business Arrangements and their Effects on Residential Real Estate Settlement Costs” conducted by CapAnalysis Group LLC and released in October 2006. Commissioned by RESPRO[®], the study involved an independent analysis of over 2200 HUD-1 Settlement Statements from transactions conducted in nine states (Alabama, Illinois, Maryland, Michigan, Minnesota, North Carolina, Ohio, South Carolina and Virginia) in 2003 and 2005. The study concluded that:

- ◆ Title premiums and title-related settlement closing charges are not higher when affiliated business arrangements are involved compared to when they are not; and
- ◆ The growth of affiliated businesses has provided pro-competitive benefits to consumers, such as the convenience of one stop shopping, more accountability or control over the transaction, better service, and greater speed in closing the transaction.

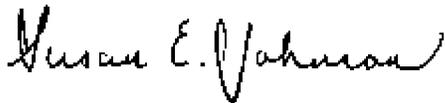
consumers who often find one-stop shopping to be a significant benefit in completing their first real transaction.

Therefore, RESPRO[®] believes that HOEPA should be amended so as to not count reasonable fees paid to affiliated or unaffiliated settlement service providers towards the “points and fees” threshold. Limiting the exclusion of fees paid to affiliates to those which are reasonable, which is the same test for fees paid to unaffiliated companies, will prevent unwarranted fees from being charged to consumers in a manner which would escape HOEPA’s protections for the consumer.

We urge the Board of Governors to support such a statutory amendment if Congress considers legislation to curb predatory lending abuses.

RESPRO[®] appreciates this opportunity to raise this issue. If you have any questions, please feel free to contact me at 202-862-2051, Ext. 210 or sjohnson@respro.org or RESPRO[®] Government Affairs Director Ron Maas at 202-862-2051, Ext. 213 or rmaas@respro.org.

Sincerely,

A handwritten signature in black ink that reads "Susan E. Johnson". The signature is written in a cursive style with a large, prominent initial "S".

Susan E. Johnson
Executive Director