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

Re: Docket No. OP-1288

Dear Ms. Johnson:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on issues related to the home equity lending market which were the subject of a June 14, 2007 hearing. ICBA supports the Federal Reserve's efforts to seek additional ways to address subprime lending problems.

Most community banks are not subprime lenders and thus are not experiencing the increased delinquencies and foreclosures being written about in the press. They do not generally offer nontraditional loan products and they conservatively underwrite their loans. ICBA members have faced stiff competition from mortgage brokers and nondepository lenders that have not received the heavy regulatory scrutiny that community banks have received. To ensure any new restrictions or requirements that the Federal Reserve imposes are effective in combating lending abuses, it is important that they be imposed uniformly across the industry, including brokers and non-bank lenders.

The following is ICBA's views on the specific topics that the Federal Reserve requested comments on.

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[1] *The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 265,000 Americans, ICBA members hold more than $876 billion in assets $692 billion in deposits, and more than $589 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

Escrow for Taxes and Insurance on Subprime Loans
As the Federal Reserve points out in the Notice of Hearings, loans to prime borrowers typically include an escrow for taxes and insurance while the opposite is true for loans to subprime borrowers. If escrows help prime borrowers make these payments, it is a tool that can also help people who have some credit problems budget for these payments. The inclusion of tax and insurance payments demonstrates the true overall monthly cost of a home and may make some borrowers realize that they can not afford the full cost of the home they are considering. ICBA would not be opposed to a requirement of escrows for taxes and insurance for subprime loans, though we have concerns that this may cause some smaller lenders some additional burden since they may not already use escrow accounts. Requiring them to set up escrow accounts may cause them to stop offering the relatively low level of loans they currently make to people with less than prime credit. Alternatively, an estimate of tax and insurance obligations should be disclosed to the borrower as part of the Good Faith Estimate or an opt-out opportunity should be provided and documented.

Escrows for prime loans should not be required by regulation but dictated by the market to allow for situations where the timing of a person's income flow makes monthly escrow payments less desirable. Also, requiring escrow accounts for all loans, not just subprime loans, is not necessary and would be particularly burdensome for the many community banks that currently do not set up escrow accounts for their mortgage loans.

Prepayment Penalties
Community banks do not commonly use prepayment penalties, but they can be a mortgage feature that appeals to some customers who do not plan to move from their home for several years and can benefit by a lower interest rate. The existence of a prepayment penalty and its terms should be clearly disclosed to the borrowers. To completely prohibit prepayment penalties may raise mortgage costs and limit product options for certain customers. However, we have concerns about large prepayment penalties on subprime loans. We would support limitations on prepayment penalties on subprime loans, such as restricting their duration so that a loan can be refinanced before the first adjustment period. In any case, prepayment penalties and their implications should be clearly disclosed.

Stated Income or Low Doc Loans
Clearly, stated income or low doc loans have been used inappropriately in a number of cases. These should not be common types of loans, but used in only certain situations and for certain borrowers, such as those who are self employed. ICBA would oppose a complete prohibition on stated income or low doc loans, but believes it is appropriate for the Federal Reserve to provide enhanced guidance on the appropriate use of these loans. We support disclosing to the borrower the type of loan they are applying for, the income that is being stated and that they do have the option to fully document their income.

"Affordable" Loans
ICBA has been generally supportive of requirements that lenders underwrite loans to the fully indexed rate and fully amortizing payments. As stated before, community banks generally are conservative underwriters and many tell ICBA that it is their normal practice to test a borrower's repayment ability under various repricing scenarios. While there may be situations when, based on a customer's credit, net worth and relationship

with the bank, this may not be needed, lenders must take particular care to ensure they fully understand the repayment capacity of subprime borrowers.

We have some concern about a rebuttable presumption that a loan is affordable based on a certain debt-to-income ration set in regulation. While the suggested 50 percent is at face high, lenders need flexibility to work with customers in unique situations.

Summary
ICBA supports the efforts of the Federal Reserve to use its regulatory powers, including those under the Home Ownership and Equity Protection Act to seek ways to better protect subprime borrowers from unscrupulous brokers and lenders. We urge the Federal Reserve not to impose additional unnecessary burdens on those industry participants, such as community banks, that have and will continue to lend responsibly and provide their customers with affordable loans that enable them, not just to buy a home, but to keep it.

We appreciate the opportunity comment. If you wish to discuss our comments further, please contact the undersigned at 202-659-8111 or email ann.grochala@icba.org.

Sincerely

Ann M. Grochala
Director, Lending and Accounting Policy