OHIO CREDIT
UNION LEAGUE

August 20, 2007

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

Re: Home Equity Lending
Docket No. OP-1288

Dear Ms. Johnson:

The Ohio Credit Union League respectfully requests the Federal Reserve Board to accept its comments on Home Ownership and Equity Protection Act (HOEPA). Due to out of state travel and other work load, the undersigned was unable to file these comments by August 15, 2007.

Thank you for your assistance in this matter.

Sincerely,

John F. Kozlowski

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General Counsel

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Dear Ms. Johnson:

The Ohio Credit Union League ("League"), the trade association for credit unions in Ohio, both federal and state chartered, advocating on behalf of more than 400 credit unions and 2.7 million credit union members, appreciates the opportunity to provide comments on the home equity lending market, including the adequacy of existing laws and regulations for protecting the interests of consumers.

Specifically, the Federal Reserve Board (Board) has requested comments on four very important issues, especially for those individuals who own or are buying a home. These are 1) prepayment penalties; 2) escrow for taxes and insurance on subprime loans; 3) "stated income" or "low doc" loans; and 4) unaffordable loans.

Ohio, as one of the leading states in home mortgage foreclosure, has addressed some of these issues last year both by legislation and regulation, but still continues to look for ways to prevent and/or reduce foreclosures. These issues presented by the Board are timely and appropriate and will be addressed below.

First, prepayment penalties, if not imposed based on a reasonable and justifiable criteria, can hinder the American dream of homeownership. The Federal Credit Union Act prohibits federal credit unions from imposing prepayment penalties. That practice of prepayment fees is also rare in many state chartered credit unions as well. It is the League's opinion that prepayment penalties should be restricted and used, if at all, under very limited circumstances based on time limitations and on the opportunity for the borrower to receive a lower Annual Percentage Rate over the life of the loan on the Mortgage.

However, many loans, especially the higher priced subprime loans that have an adjustable rate, include a prepayment penalty with no restrictions. This is especially true of those loans that have low teaser rates such as 2/28 or 3/27 and other Adjustable Rate Mortgages (ARM's). Not only are the homeowners faced with stiff penalties for paying off the loan early but the value of the home is usually worth less than what is owed on the mortgage, thus creating further hardship for the homeowner.

For these reasons, the League suggests that the Board look at the fairness and soundness of prepayment penalties and the circumstances under which they may be justified. The Board should also consider time limitations on these prepayment penalties as well as the amount. Furthermore, an additional consideration should be enhanced disclosures of the prepayment penalties so that the homeowner will be more knowledgeable of what they are and the consequences of these prepayment penalties.

Second, is the issue of escrow for taxes and insurance on subprime loans. With a variety of nontraditional mortgages today such as interest only loans, subprime ARM's with teaser rates, or no doc loans, available that do not provide for an escrow account for taxes and insurance, many borrowers either fail to or are unable to pay the taxes and insurance on the property thereby creating an additional debt and an increased risk of foreclosure.

By requiring an escrow account for these taxes and insurance, the borrower will at least have the funds to remit payment for those obligations. If the borrower meets these obligations, he or she will be able to better meet the mortgage obligations.

Further, escrow should not be mandated for all loans but should be based on specific needs and circumstances. At one time requiring an escrow for taxes and insurance was based on the percentage of the value of the property which was financed. With the changes in the number and type of home mortgage instruments available, the borrower may or may not be required to escrow for these obligations. Therefore, due consideration should be given to establishing criteria under which one must escrow for these obligations.

Finally, it is important that there be adequate disclosures to indicate if the loan payment includes tax and insurance payments; and, if they increase and are not sufficient because of a change in circumstances, the borrower is still liable for the full amount.

Third, is the issue of "stated income" or "low doc" loans where the lender does not document or verify the borrower's income. It is the League's opinion that documentation for income or net worth of a borrower is good practice from both the lender and borrower's perspective. While there may be instances when documentation may not be necessary, such as where there is other evidence, lack of documentation still would not be appropriate for subprime borrowers. In addition, where the borrower is given the option to provide documentation or not, and the lender charges a higher interest rate for a reduced documentation loan, the borrower should be provided a disclosure at the beginning of the process that fully explains this option.

Fourth, is the issue of unaffordable loans and the ability of the borrower to repay the loan based on any variance in the loan balance or the fully indexed rate. Recently, the National Credit Union Association ("NCUA") and other financial institution regulators issued guidance on nontraditional loans. That guidance provides that lenders should evaluate the borrower's ability to repay based on the fully indexed rate, assuming an amortizing payment schedule, and on the ability to repay any increase in the loan balance that may result from negative amortization. This is especially true for adjustable-rate subprime loans. For non subprime adjustable rate loans, the analysis should also be the recommended approach, but there should be some flexibility to take into account other factors such as investments, expectations of increased income, etc.

Finally, the Board has requested comment if there should be a rebuttable presumption that a loan is unaffordable if the debt-to-income ratio exceeds 50%. This approach would be appropriate not only for subprime loans, but may also be appropriate for prime loans, with some exceptions.

The Ohio Credit Union League commends the Board for addressing these issues at this time and the effect that some mortgage backed securities are affecting the financial sector. However, one area that should not be overlooked is financial education. Financial education is very important for the adult consumer as well as students. As individuals continue to borrow and secure credit, it is important to make sure that they have the tools to make informed decisions. These decisions may not always be in the best interest of the borrower or may not work out based on circumstances but at best the individual will increase his or her chance of making a well informed decision. Credit unions continue to be active in providing financial education and counseling to consumers, students, and their members, both in schools and at the credit union. In addition, other organizations should be encouraged to make available financial education and counseling to students and the general public.

The Ohio Credit Union League appreciates the opportunity to provide the above comments on Home Equity Lending and would be willing to provide additional comments or input if so requested.

If you have any questions or comments, please do not hesitate to contact me at jkozlowski@ohiocul.org or (800) 486-2917 ext. 266. Thank you for the opportunity to provide comments on this proposal

Sincerely,

John F. Kozlowski

John F. Kozlowski
General Counsel