



Remarks

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on

The Home Equity Lending Market & the Adequacy of Existing Regulatory and Legislative
Provisions in Protecting the Interests of Consumers

Before the

Federal Reserve Board

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Good morning, I am Harry Dinham, CMC, President of NAMB. We appreciate being invited to participate in this morning's panel.

We are the only trade association devoted to representing the mortgage broker industry. Our members are state-regulated, independent, small business men and women that adhere to a strict code of ethics and best lending practices.

Today, we have one of the strongest mortgage financing delivery systems in the world. The tremendous growth and development in the secondary market has given lenders greater access to capital, lowered costs, diversified risk, and increased access to credit for all consumers. Credit scores, automated underwriting models, and risk based pricing have increased the number of originators and therefore competition, which has decreased relative costs of the non-prime *versus* the prime market.

Still, our success has not come without problems, particularly in the non-prime, variable rate market. We walk a fine line as we craft measures to address the problems in this market segment. We all agree that we need to prevent abusive lending practices. But, we must be careful not to advance measures that will unintentionally harm consumers.

I want to clarify before discussing our recommendations that we are not convinced HOEPA is the best forum for many of the measures needed to address the abusive lending practices effectively. The intent of HOEPA was to prohibit practices and provide a cooling-off period for consumers of 'high-cost' loans. What needs to be addressed today are practices that are unfair, deceptive and unethical, but we believe it is a leap to say the protections in HOEPA must be expanded irrelevant of the cost of the loan.

With that in mind, NAMB recommends the following:

1. Best Practices for the Industry

NAMB believes regulators can take less formal steps and instead, establish and encourage industry-driven best practices that address professional standards, ethics, and financial literacy. We are currently reviewing our best practices and are willing to work with regulators and other industry representatives to ensure that there is a uniform standard of best practices applicable to everyone.

We also recommend that as a uniform, industry-wide best practice that all mortgage originators conduct their business and operate under a duty of "good faith and fair dealing." We do not need to wait for laws and regulations to tell any of us to be ethical, honest, and not lie, cheat, steal or commit fraud.

2. Effective Disclosure is the Best Defense Against Abusive Lending Practices

Some have said that there are too many pieces of paper now. We do not need more. NAMB agrees and we support streamlining the mortgage process. But, with the new complex mortgages, like option arms, more disclosure, not less, is warranted. NAMB proposes the

creation, and industry-wide use, of a one-page payment sheet that communicates key loan features and deters the prospect of payment shock. In addition, we encourage HUD and the Board to update key disclosures, such as the GFE and TIL statement.

3. Regulate the Practices, Not the Products

Abusive practices relate to people not products. We should remember that each consumer is unique; each one chooses a loan for his or her own personal reason; what was inappropriate for some was perfect for others. For this reason, NAMB does not believe in prohibiting programs, products, or loan features. Instead, we support the creation of policies that will prevent abusive practices in the market.

Since 2002, NAMB has called for an increase in professional standards, education requirements, and criminal background checks for *all* mortgage originators. We remain the only industry trade association calling for this reform. In addition, NAMB believes mortgage originators must have something to lose if they act unethically. Therefore, NAMB supports the creation of a national registry for *all* mortgage originators that will prevent bad actors from moving within the mortgage community.

4. Principled Based Guidance

The recent Supreme Court case, *Watters v. Wachovia*, has split the mortgage industry into two camps: those subject to federal oversight *versus* those subject to both federal and state oversight. This split system has created gaps and without appropriate oversight, two things will happen:

- (1) New business models will develop that exploit the removal of state consumer protection laws for federal entities and their subsidiaries; and
- (2) There will be confusion as to whether a similar level of consumer protection can be afforded to consumers of federally-exempt entities. The federal banking agencies currently do not possess the infrastructure and resources needed to respond to consumer complaints appropriately and timely. In contrast, all 50 states have similar elements of consumer protection. They also have well-established processes for handling consumer complaints and for supervising and handling individual, licensed professionals who interact with consumers.

To create uniformity, NAMB believes the federal agencies should create principled based guidance and allocate funds for supervisory oversight in addition to delegating authority to the state agencies currently providing consumer protections.