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MORTGAGE SERVICES

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January 14, 2010

The Honorable Ben Bernanke
Chairman, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Proposed Regulations to ban yield spread premiums (Amendments to Regulation Z (Truth in Lending) for Closed-End Credit and Home Equity Lines of Credit

Letter of December 24, 2009 signed by 18 members of the United States Senate reference as above

Dear Chairman Bernanke:

In the referenced letter, Senator Jeffrey Merkley and 17 other Senators asked you to ban yield spread premiums.

The primary basis for the Senators' request was that "unknown to the borrowers, the broker also stood to earn thousands of dollars in additional bonus payments from the lender" ... "if he could convince the family to take out a higher-priced mortgage..." Unfortunately, although such statements make for dramatic public addresses and newspaper articles, it is at its very core untrue. Mortgage Brokers, and only Mortgage Brokers, have been required to disclose yield spread premiums to borrowers for over ten years. Furthermore, HUD as consistently recognized the value of yield spread premiums in giving borrowers options to reduce out of pocket settlement fees by choosing a higher interest rate. The recently implemented Good Faith Estimate (required by the Real Estate Settlement Procedures Act) clearly shows that the selection by the borrower of a higher interest rate lowers the amount of cash required to close on a loan.

In their letter, the Senators also state that mortgage brokers "steer" unwary consumers to lenders who will pay higher yield spread premiums for more risky loans. I take both personal and professional exception to that allegation. Yes, I (and my employees) search for lenders that will pay a higher yield spread premium for a given interest rate ... not to increase my income, but rather to allow me to get them a lower interest rate while maintaining the same income agreed upon in our initial meeting. On a daily basis, any of my several wholesale lenders may pay more (or less) for a given interest rate than the others. It's my job to help my customers get the best loan I can for them. In many cases, that translates into finding the wholesale lender that will pay the most for the lowest rate I can find.

As with irrational calls for tighter restrictions for gun ownership, it's not the gun that decides who will be killed or injured. It's the person holding the gun. In our case, it's not the existence of the yield spread premium that harms the borrower, it's the level of greed that some lenders (be they banks, credit unions, mortgage banks, or mortgage brokers) have that allows them abuse a trusting borrower. I can provide many, many examples of instances where my company has provided a much better loan (lower interest rate and/or lower settlement costs) than my banking competitors solely because I could use a tool available to me called the yield spread premium.

What the Senators are really trying to do is convince you to eliminate the existence of about one half of the mortgage lending industry. They're either doing it because they want to eliminate competition to the benefit of the larger institutional lenders (at the expense of thousands of small businesses) or because they just don't understand what they're doing.

Please don't allow such misinformed and misdirected individuals to sway you and your Board to participate in such a scheme.

Most respectfully,

Joe T. Stroud, Jr.
Mortgage Broker

Encl. Letter, US Senate, dated December 24, 2009, by Jeffrey Merkley

United States Senate

WASHINGTON, DC 20510

December 24, 2009

The Honorable Ben Bernanke
Chairman, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Proposed regulations to ban yield spread premiums (Amendments to Regulation Z (Truth in Lending) for Closed-End Credit and Home-Equity Lines of Credit)

Dear Chairman Bernanke:

It is now broadly understood that deceptive and unfair mortgage practices played a pivotal role in steering American families to accept risky and unsustainable mortgages, ultimately driving families into foreclosure and our economy into the worst economic crisis since the Great Depression. We write now to urge you to take strong action on behalf of consumers, home ownership, and financial stability by adopting as final the proposed amendments to Regulation Z that ban yield spread premiums.

Subprime mortgages were presented as a type of loan that would help moderate-income families qualify for homeownership. But when left unregulated and combined with yield spread premiums, they too often stripped the wealth that working families accumulated over many years. Eventually, they stripped wealth from our entire economy.

At the center of this problem were yield spread premiums. As you likely know, mortgage brokers, who held themselves out as financial advisers, were paid points or fees to help a family find a good loan. However, unknown to the borrowers, the broker also stood to earn thousands of dollars in additional bonus payments from the lender – the "yield spread premium" – if he could convince the family to take out a higher-priced mortgage, such as one with an exploding interest rate that forced the family to either pay more or refinance, in either case stripping their equity in the home.

We call your attention to a New York Times editorial published on April 10 entitled "Predatory Brokers", which highlighted this problem. The editorial pointed to a study by the Center for Responsible Lending that found that sub-prime borrowers who used a broker actually fared

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worse than those who went directly to lenders. They paid $17,000 to $43,000 more for every $100,000 they borrowed. The Times concluded that "The first step must be to outlaw the kickbacks that lenders pay brokers for steering clients into costlier loans." The editorial went on to say that "the most clearly unethical form of payment is the so-called yield spread premium."

A study for the Wall Street Journal found that 61 percent of subprime loans originated in 2006 went to borrowers who qualified for prime loans. It is shameful that millions of American families who could have obtained safe 30-year fixed-rate mortgages were instead tricked by the yield spread premium into the subprime scam.

Frankly, it is difficult to overstate the damage that has been done by these hidden steering payments and dangerous subprime mortgages. Nationwide, an estimated 2 million families will lose their homes this year, and the total of foreclosed families is predicted to reach 9 million by 2012. Minority homeowners have been particular victims of these abusive practices and have suffered some of the highest foreclosure rates. Moreover, the damage was not limited to Main Street. Yield spread premiums – combined with prepayment penalties – were the enablers for the propagation of destructive sub-prime mortgage-backed securities and collateralized debt obligations that brought Wall Street to its knees and devastated our economy.

As the steward of our nation's economic health and the regulator of our banking system, the Federal Reserve must end this dangerous practice. While we wish the Federal Reserve had acted sooner, we strongly believe that the Federal Reserve should act without further delay. Doing so will provide confidence to markets, help reopen lending channels, and, most importantly, protect working families who expect that their most important investment, their home, will help them grow their wealth and their happiness over the long term.

Sincerely,

Sherrod Brown	Carl Levin
Claire McCaskill	Bob Casey, Jr.
Mark R Warner	Russ Feingold
Jeanne Shaheen	Jeff Merkley
Ben Cardin	Whitehouse
Ron Wyden	Frank R. Lautenberg

cc: Hon. Elizabeth Duke, Governor, Federal Reserve System