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United States Senate

WASHINGTON, DC 20510

December 17, 2010

COMMITTEES:
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COMMERCE, SCIENCE AND
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HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS

SPECIAL COMMITTEE ON AGING

AD HOC SUBCOMMITTEE ON
CONTRACTING OVERSIGHT,
CHAIRMAN

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Proposed Truth-in-Lending Mortgage Regulations (FRB Docket No. R-1390)

Dear Board of Governors:

I am writing to express my concern with the proposed rules you have put forward in FRB Docket R-1390. While some of the proposed regulations could enhance consumer protections, others cause serious concern. In particular, I would urge you to withdraw the Board's proposed "safe harbor" rule relating to the cross-selling of reverse mortgages with other financial and insurance products.

As you know, Section 2122 of the Housing and Economic Recovery Act of 2008 (HERA), explicitly states that originators of reverse mortgages insured by the Federal Housing Administration (FHA) may "not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity." It also states that the borrower shall "not be required, directly, or indirectly . . . to purchase any other financial or insurance product." By contrast, under the Board's rule, an originator could sell both a reverse mortgage and other financial or insurance products to the same consumer, as long as the transactions took place at least 10 days apart. This would effectively sanction the cross-selling of harmful products with reverse mortgages with a small time-lapse. Indeed, nothing under the rules would prevent the originator from marketing annuities (including deferred annuities), long term care insurance, and other products of concern even before the end of the safe harbor period. This is significant, since most reverse mortgages being originated today are fixed-rate products in which the borrower receives all proceeds up-front. Borrowers who are wondering where to put this money may be lured into unsuitable products with high fees.

While I understand that the Board's rules are intended to apply to all reverse mortgages, not just FHA insured reverse mortgages, I would note that, currently, nearly all reverse mortgages sold in the United States are FHA insured, so the Board's rules would primarily impact that market. Further, Section 1076 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2009 requires the Consumer Financial Protection Bureau to conduct a study of the reverse mortgage industry, and the cross-selling issue in particular, and to issue consumer protection rules based on its findings. Therefore, as the author of both Section 2122 of HERA and Section 1076 of Dodd-Frank, I would urge you to withdraw the proposed cross-selling rules, because they undermine both statutes.

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As a final note, I understand that consumer advocates have expressed grave concerns about a number of other provisions in FRB Docket 1390. Foremost among these are the adjustments to the right of rescission, which is designed to protect consumers from unscrupulous lending practices. In light of these many concerns, I would encourage you to strongly consider withdrawing the entire rule.

Sincerely,

A handwritten signature in blue ink that reads "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being more prominent and the last name "McCaskill" following in a similar style.

Claire McCaskill
United States Senator