



Neighborhood Economic Development Advocacy Project

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The Hon. John C. Dugan
Office of the Comptroller of the Currency
250 E Street, SW
Mailstop 1-5
Washington, D.C. 20219

Re: Proposed Statement on Subprime Lending
OCC Docket No. 2007-0005

Dear Comptroller Dugan:

Thank you for the opportunity to comment on the Proposed Statement on Subprime Lending. The Neighborhood Economic Development Advocacy Project (NEDAP) is a resource and advocacy center that promotes community economic justice in low and moderate income communities and neighborhoods of color in New York City. For the last ten years, NEDAP has worked with hundreds of community-based organizations and homeowners to combat predatory abuses in the subprime lending market. NEDAP's programs are multi-pronged, combining community outreach and education, policy advocacy, research and documentation, and corporate accountability, giving us a rounded view of subprime lending abuses and their impact on homeowners and neighborhoods.

Sadly, though we have helped thousands of homeowners avoid predatory loans and avert foreclosure, problems associated with subprime mortgage lending have been worsening in recent years. Foreclosures on subprime loans are spiking in our city, and unfair, deceptive, and discriminatory practices in the subprime lending market continue to devastate homeowners and their communities. The proliferation of exotic mortgages in neighborhoods where subprime lending has been most concentrated in New York City have led thousands of low and moderate income first-time homebuyers into mortgages they cannot possibly afford.

It is imperative that the regulators crack down on lending abuses and ensure that loans are affordable to borrowers, not only when they are made but at the fully indexed rate. Though we appreciate your issuing the Proposed Statement, we are concerned that it will not adequately protect homeowners from the dangers of subprime adjustable rate loans and in fact, as written, will continue to allow – and even protect – predatory mortgage lending.

At a minimum your Statement should require for all subprime loans:

(1) Full documentation of income

NEDAP frequently sees loans in which borrowers' incomes are falsified to qualify unsuspecting homeowners for loans that are in fact unaffordable to borrowers and therefore destined to fail. The solution to this simple – always require documentation of loans.

The regulators should issue a Statement that states unequivocally:

Documentation of income is required for all loans, when the source of income cannot verify the amount of income, bank statements, tax returns and other documentation may be used.

(2) An evaluation of the affordability of monthly payments, including those resulting from interest rate increases of adjustable rate loans

Ability to Pay Should be Determined Based on the Maximum Possible Payment for the First Seven Years of the Loan

The federal banking agencies' proposed Statement sets forth a standard to determine repayment capacity that includes evaluation of the borrower's ability to repay the debt by its final maturity at the fully indexed rate, assuming a fully amortizing repayment schedule. The Statement mistakenly assumes that, by requiring an analysis of the borrower's ability to pay the fully indexed rate, homeowners will be adequately protected from the abuses of these loans. The problem, however, is that while the test of the fully indexed rate addresses the problem of lower teaser rates, it in no way addresses the problem of adjustable rates, which is the unknown that makes these loans so dangerous for homeowners.

By requiring underwriting only to the fully indexed rate, and ignoring the likely effect of the payment increases resulting from the interest rate increases, the regulators are essentially guaranteeing the continued practice of ignoring the effect of likely interest rate increases on payments.

To sustain homeownership and preserve precious equity, the regulators should require underwriting standards for adjustable rate home loans to be:

At the time a home loan is made, the lender should ensure that the homeowner currently has the capacity to pay all housing related debt based on the maximum possible rate that could apply under the terms of the loan.

(3) Disclosure of the amount and timing of the maximum monthly payments

If disclosures are required, at least require the maximum possible payment to be disclosed.

We believe that disclosures, unfortunately, do not adequately protect consumers. This is especially true in the subprime market in which there is a major imbalance in information between the parties, and unfair and deceptive practices have been rampant. That said, one disclosure that could prove helpful would

be of the maximum possible payment, along with dates on which it could be applied. In this day of sophisticated computer equipment, these are not difficult calculations. The disclosures should be prominent and simple, and made both at the time the early RESPA disclosures are provided *and* at closing.

Thank you for your attention to this matter.

Sincerely,

Mark Winston Griffith
Neighborhood Economic Development Advocacy Project