



THE COALITION OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

17

DISSEMINATION
2000 JUL -3 A 9:17

June 30, 2000

Manager, Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G Street, N.W.,
Washington, DC 20552
fax (202) 906-7755

Attn: Docket No. 2000-34

Dear Office of Thrift Supervision:

On behalf of the Coalition of Community Development Financial Institutions (CDFI Coalition), I would respectfully like to comment on OTS' Responsible Alternative Mortgage Lending rulemaking, Docket No. 2000-34. Representing more than 465 community development financial institutions working in 50 states, the CDFI Coalition is the lead vehicle for industry-wide ventures and a unified voice of the industry.

The Coalition and its members feel strongly that OTS and other federal regulators must take action to stop financial practices that strip homeowner equity, trap consumers into unrealistic and unaffordable payments, or charge unethical fees.

Predatory lenders are able to take advantage of low-income, elderly, and other underserved people because of gaps in access to conventional capital for these people. CDFIs emerged to fill just these gaps, and have for decades worked to serve unconventional markets. By combining access to capital for "unconventional" borrowers with development services like financial literacy and homeownership counseling, CDFIs provide options to those who might otherwise have to turn to predatory lenders for their financial needs.

OTS should promulgate regulations to prevent federal thrifts from engaging in predatory lending practices. Predatory lending practices have increased dramatically in recent years. Not only do they harm low-income and minority homeowners, but they also impair the safety and soundness of institutions engaging in these practices since such practices often lead to borrower default. Since traditional federal thrifts are beginning to be active players in the subprime market, now is the appropriate time for OTS to set the appropriate standards of conduct through regulation. In addition, many finance companies engaged in subprime lending have applied to OTS to obtain thrift charters.

Predatory practices loans that include harmful, wealth-depleting terms:

- Credit insurance premiums financed into the loan up-front in a lump-sum payment;
- excessive fees (greater than 3% of the loan amount (4% for FHA or VA loans));
- high-interest rate loans (with ann interest rate that is higher than the GSE contract rate) with prepayment penalties; or
- lenders that "steer" borrowers into higher fee and interest rate loans than they qualify for.

An appropriate federal regulation on subprime home loans would therefore be based on the following principles:

- No subprime home loan (defined as loans having an interest rate greater than conventional loans) should contain a prepayment penalty.
- No home loan should contain up-front, lump-sum credit insurance premiums or debt cancellation/suspension agreements that are financed into the loan.
- Finally, for subprime loans that exceed HOEPA thresholds, OTS should implement additional protections, such as prohibiting balloon payments, the financing of fees into the loan amount, mandatory arbitration and requiring homeownership counseling before closing.
- In addition, OTS should require thrifts, their affiliates, and subsidiaries to "upstream" potential borrowers to the lowest-cost products offered by their related entities. Finally, thrifts should receive unfavorable CRA consideration for the origination, purchase or facilitation of loans with harmful characteristics, such as subprime loans with prepayment penalties, financed credit insurance or debt cancellation/suspension agreements, and fees greater than 3% of the loan amount as defined by HOEPA.

OTS should also ensure that the Alternative Mortgage Transaction Parity Act (the "Parity Act") regulation (12 CFR 560.220.) does not work against state regulations combating predatory lending practices. One way to accomplish this would be to remove prepayment penalties and late fees from the list of applicable regulations. state housing creditors are able to preempt state law restrictions on prepayment penalties and late fees by structuring loans as alternative mortgages (either adjustable rate mortgages or mortgages with balloon payments). These lenders are thus able to take advantage of federal preemption without any corresponding obligation to submit to agency regulation.

Thank you for your consideration.

Sincerely,



Laura Schwingel
Director

CDFI Coalition Member Organizations:

Association for Enterprise Opportunity
Community Capital Bank
Community Development Venture Capital Alliance
First Nations Development Institute
National Community Capital Association
National Congress for Community Economic Development
National Federation of Community Development Credit Unions
Self-Help
Shorebank Corporation
Southern Development Bancorporation
Woodstock Institute