UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION



WASHINGTON, D.C. 20580

December 3, 2010

Jennifer L. Johnson Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, D.C. 20551

Re: Docket No. OP-1388

Dear Ms. Johnson:

The Federal Trade Commission ("FTC" or "Commission") appreciates the opportunity to provide comments to the Federal Reser0000 472.8000 TD0.0600j0.00elB200 0.0000 TD(. H)Tj6.3600 0.0000 TD

¹² U.S.C. §§ 2801-2810; 12 C.F.R. § 203. HMDA's specific goals are three-fold: (1) to help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (3) to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

² 15 U.S.C. §§ 1691-1691f.

³ 15 U.S.C. §§ 1601-1666j (requiring disclosures and establishing other requirements in connection with consumer credit transactions).

⁴ 15 U.S.C. § 1639 (amending TILA to provide additional protections for consumers who enter into certain high-cost refinance mortgage loans).

⁵ 15 U.S.C. § 45(a). The Commission has brought cases against a number of the nation's largest subprime mortgage lenders and servicers challenging various unfair or dec

The FTC also investigated Homecomings Financial, LLC ("Homecomings"), a wholesale mortgage lender that originated the vast majority of its loans through independent brokers. The FTC staff's analyses showed that, on average, Homecomings charged African-American and Hispanic borrowers substantially more than similarly-situated non-Hispanic whites, and the price differences could not be explained by any legitimate underwriting or credit characteristics. The FTC staff close

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channel (that is, retail or wholesale), bor

See, e.g., FTC v. Wasatch Credit Corp., No. 99-579 (D. Utah 1999) (in making HOEPA mortgage loans, defendant represented to consumers that the credit offered and extended was open-end credit, but it in fact involved extensions of closed-end credit subject to HOEPA).

Specifically, lenders must report the difference (or rate spread) between the annual percentage rate ("APR") and the applicable benchmark rate if the difference is over certain thresholds. The 2002 revision, which took effect on December 1, 2004, used the Treasury rate as the benchmark rate and set the thresholds to 3 and 5 points for first- and second-lien loans, respectively. In 2009, the benchmark rate was changed to the average prime offer rate, and the thresholds were changed to 1.5 and 3.5 points for first- and second-lien loans, respectively. See 12 C.F.R. § 203 Appendix A(I)(G)(1)(a) (Jan. 1, 2010). In calculating and setting these thresholds, the Federal Reserve Board seeks to exclude the vast majority of prime-rate loans and include the vast majority of subprime-rate loans.

Protecting consumer privacy is an important part of the FTC's consumer protection mission. The FTC's Division of Privacy and Identity Protection overse

III. CONCLUSION

The Commission is strongly committed to enforcing the fair lending laws, and it believes that amendments to Regulation C would strengthen its ability to do so effectively. If any other information would be useful regarding these matters, please contact Allison I. Brown, Acting Assistant Director, Division of Financial Practices, at (202) 326-3224.

By direction of the Commission.

Donald S. Clark Secretary