Greenlining Comments on Subprime Mortgage Lending
(Too Little, and Perhaps Too Late)
[Docket No. 2007-3005]

Dear Chairman Bernanke, Comptroller Dugan, Chairman Bair, and Director Reich:

The Greenlining Institute is submitting these preliminary comments as quickly as possible in order to enable the regulators to determine whether additional studies should be undertaken, particularly as to the impact of the proposed statement on minority homeownership and low/moderate income homeownership.

The proposed guidelines on subpime are well meaning. Greenlining, however, is concerned that the guidelines have been developed without benefit of any underlining studies as to their impact on a) minority homeownership, b) homeownership rates generally, c) the 70% of Americans who live from paycheck to paycheck, and/or d) the legitimate desire of some potential home buyers to place an optimistic bet on their future and the future of our economy (See for example Wall Street Journal, 03-12-07, “Credit Crack-up”)

As the regulators are well aware, Greenlining raised concerns about exotic ARMS in March 2004, and helped convene in March 2004, with the Federal Reserve, the OCC, FDIC, and OTS, 15 financial institutions to discuss what Greenlining believed to be a pending crisis.

Unfortunately, these guidelines appear to have been written without sufficient input from homeowners who strive to legitimately share the American Dream with those who can afford prime fixed rates.

Besides Greenlining’s primary concern that these guidelines were developed without studies on the implications as to minority and low-income home ownership, Greenlining raises the following preliminary concerns:

1. Half of Subprime Eligible for Prime:
   Half or more of those receiving subprime loans are eligible or could be readily made eligible for prime rates. Alternative credit scoring, for example, using rental payments and utility bills, could have easily enabled many facing foreclosure from subprime loans to have received a fixed rate prime loan that they could afford. Yet these guidelines fail to address the responsibility of financial institutions to ensure such upgrading, much less indicate regulatory concern, or suggest possible regulatory penalties.

2. Unintentional Enlargement of Subprime Market
   These guidelines could have the unintended consequence of forcing an increasing number of low and moderate income owners into the unregulated subprime market. Perhaps it would be better for the regulators to consider supporting and encouraging Congressional legislation that would regulate all home loans and those who participate in originating or developing the secondary markets for such loans. That is, legislation should be considered to cover

federally unregulated mortgage brokers, (who are generally the largest abusers in the subprime market) and the Wall Street investment bankers, such as Morgan Stanley and Lehman Brothers, that are responsible for most of the financing of the subprime market and, in fact, have shares in many subprime companies. Consideration should also be given to covering the insurance industry and hedge funds that adversely influence the housing market. (See for example, recent articles estimating that Wall Street investment bankers are responsible for 60% of recent subprime loans, Wall Street Journal 03/12/2007 and New York Times 03/13/2007 on New Century Financial and New York Times, 03/11/2007, "Crisis Loans in Mortgages")

Proposed Interim Actions

The Greenlining Institute, on behalf of its members, who include major African American churches, major Latino and Asian American immigrant groups, and small minority business associations (whose members finance their businesses with the equity of their homes), recommend the following interim actions:

1. The regulators individually or collectively complete studies within sixty days on the impact of the guidelines on homeownership rates, particularly as to the poor, minorities, and the 70% of Americans who live from paycheck to paycheck.

2. The regulators revise the guidelines to discuss the importance of insuring that all borrowers eligible for prime rates should be receiving prime rates, including those who would be eligible if alternative scoring, (such as using utility and rental payments) were available.

3. The regulators, along with the Secretary of the Treasury, secure Administration support for immediate congressional action that would, under the interstate commerce clause, enable the regulators (and/or a separately created federal agency) to ensure that all institutions involved in home origination and home equity loans are covered by these and future guidelines. This should include the Wall Street investment bankers, who have financed and substantially increased the tentacles of the subprime industry, as well as the 50,000 mortgage brokers who generally are far more unscrupulous then federally regulated institutions.

4. The regulators also consider supporting pending legislation to modernize CRA to include Wall Street investment bankers and the insurance industry. (CRA Modernization Act of 2007, introduced by Congresspersons Eddie Bernice Johnson and Luis Gutierrez.)

Attached is a copy of Greenlining's proposed Op-Ed in the American Banker, scheduled to be published in March, on the above subject matter.

Respectfully submitted,

/s/ Bob Gnaizda
Robert Gnaizda
General Counsel and Policy Director
The Greenlining Institute

cc: Barry Wides, Scott Polakoff

The Housing Crisis: Too Little, Too Late

By: Robert Gnaizda, General Counsel, The Greenlining Institute, and

Len Canty, Chair and CEO of The Black Economic Council

More than three years ago, the federal regulators were warned by community groups, including The Greenlining Institute, about the perils of exotic adjustable rate mortgages and the need to focus, at least in part, on Wall Street investment bankers and other unregulated sources of subprime credit.

Today, the regulators have awakened to part of the problem. Unfortunately some of the regulators, as well as Freddie Mac, are veering toward a course of possibly arbitrary and artificial tightening of credit that may be counterproductive. That is, it may dry up credit to minorities, the poor, and the seventy percent of Americans who live from paycheck to paycheck. One leading advocate for the poor, David Glover, the Executive Director of the Oakland Citizens Committee for Urban Renewal (OCCUR), recently said, “The irony of this is that people who already own expensive homes are influencing the decisions that adversely effect renters and the poor who also want a part of the American dream.”

Except for the Comptroller of the Currency, John Dugan, it appears none of the regulators have yet thought about, much less carefully studied, the adverse impact their policies might have on their efforts to close the minority homeownership gap. Nor have some regulators studied whether the tightening of credit could reduce our national homeownership rate from 69% to the 64% level of just a decade ago. Today, in our largest state, California, only 1 in 20 minorities who do not own a home can afford to buy one.

Role of Wall Street

Of equal concern to housing advocates, particularly those concerned about the unacceptably low homeownership rates among African Americans, Latinos, and Southeast Asians, is the regulators apparent unwillingness to influence the conduct of giant Wall Street investment bankers such as Goldman Sachs, Morgan Stanley, Bear Stearns, Lehman Brothers, and Merrill Lynch. Over the last few years almost two-thirds of mortgages have been packaged into securities and sold to investors worldwide by these bankers. To date, none of these giant investment bankers have offered, despite their $50 million CEO salaries, to share the pain with the poor.

Another issue many advocates for the poor are concerned about is what impact the tightening of credit for the regulated and generally responsible financial institutions will have on the irresponsible unregulated market. Without national legislation and federal regulation it is quite possible that an increasing number of minorities and the poor will be forced into exotic subprime loans from the unregulated including a wide range of subprime mortgage lenders who are in it for quick profits, such as Ameriquest and New Century Financial.

Of equal concern is the federal regulators lack of solutions that address the pending foreclosure crisis which could, according to the Center for Responsible Lending, affect 1 in 5 subprime borrowers, a disproportionate percentage of whom are minorities and/or poor.

<u>Multi-Billion Dollar Anti-Foreclosure Fund</u>

If the regulators want uniform support for the tightening of credit, they should first offer a two prong solution. The first part of the solution is to create a <u>multi-billion</u> dollar national, Anti-foreclosure Fund, funded in part by the giant Wall Street investment bankers who have profited so heavily from the mortgage instruments the regulators now wish to restrict or eliminate. At a minimum this fund should be available to all low and moderate income families who face foreclosure, whether from a regulated or unregulated institution, or whether from the originator or the foreign security holder, so long as the cause of the foreclosure is not primarily due to the borrower's own fraud. Some of us believe that financial literacy alone or a 311 hotline is not the full answer, although both could benefit thousands of those facing foreclosure.

Hopefully the Chairman of the Federal Reserve, the Chairman of the FDIC, the Comptroller of the Currency, and the Director of the OTC, will soon issue a clear call for all those who have benefited from loose credit mortgage standards, including Wall Street investment bankers, to come to the table and develop this fund. Nine years ago Federal Reserve Alan Greenspan did just that to save a hedge fund, Long Term Capital Management, from its own fraud and greed.

The second half of the solution is to contemplate the "unthinkable": regulate the investment banks, the insurance companies, the mortgage brokers, and the Ameriquests of the world. This would help set a universal standard of conduct. In the absence of this universal standard, even the most responsible financial institutions will be forced to get out of the subprime business, as did B of A a few years ago, or compete at the lowest common denominator level.

Perhaps, it is time for our new Congress to follow a suggestion first made by former US Comptroller of the Currency, Eugene Ludwig in 1993: expand CRA to cover a broad range of financial institutions including investment bankers and insurance companies.