Freddie Mac
We make home possible℠

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Office of the Comptroller of the Currency
250 E Street, S.W., Mailstop 1-5
Washington, DC 20219
Docket Number OCC–2007–0005
regs.comments@occ.treas.gov

Robert E. Feldman
Executive Secretary
Attention: Comments,
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429
Comments@FDIC.gov

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., N.W.
Washington, DC 20551
Docket Number OP - 1278
regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision 1700 G Street, N.W. Washington, DC 20552
Docket Number 2007-09
regs.comments@ots.treas.gov

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314–3428
regcomments@ncua.gov

Re: Proposed Statement on Subprime Mortgage Lending, 72 Fed. Reg. 10,533 (March 8, 2007)

Dear Sir or Madam:

Freddie Mac respectfully submits these comments in response to the agencies' Proposed Statement on Subprime Mortgage Lending ("Proposed Statement"). Freddie Mac shares the central concern of the agencies in issuing the Subprime Statement: that borrowers must have the ability to repay their loans in a timely manner from sources other than the mortgaged collateral. Freddie Mac has a longstanding commitment to helping finance homes that families can both afford and keep. We believe that our credit policies and antipredatory lending requirements have made us a leader in the secondary market on this critical issue.

We strongly support the agencies' consideration of this important and timely issue and agree that short-term subprime hybrid ARMs, the mortgages with the potential to pose the greatest risk to lenders and borrowers, should be underwritten at the fully indexed, amortizing rate. On February 27, 2007, Freddie Mac announced a range of new practices for our purchase of such mortgages. The most important of these is that we will not purchase or invest in short-term subprime hybrid ARMs unless they are underwritten at the fully indexed, amortizing rate.

Freddie Mac's strict new underwriting requirements for short-term subprime hybrid ARMs

On February 27, Freddie Mac announced that for short-term subprime hybrid ARMs originated on or after September 1 we:

- will no longer purchase such mortgages, or ABS that are backed by such mortgages, where the borrowers were not qualified using the fully indexed, fully amortizing rate;
- will limit the use of low-documentation underwriting; and
- will strongly recommend that originators require tax and insurance escrows.

A number of these requirements are consistent with the standards proposed in the agencies' proposal for short-term subprime hybrid ARMs. For example, we agree that:

- short-term subprime hybrid ARMs should be underwritten at the fully indexed, amortizing rate;
- an institution's debt-to-income analysis should assess taxes and insurance as well as principal and interest;
- reduced underwriting documentation should only be used in appropriate circumstances such as where income documentation is truly difficult and only when there are mitigating factors, although our February 27 announcement goes even further by eliminating "no-income, no asset" loans altogether; and
- borrowers should be provided with information that enables them to understand terms, costs, and risks of the loan at relevant times. However, as a secondary market investor, we defer to the agencies and the institutions they regulate as to how best to develop appropriate disclosures.

Freddie Mac's antipredatory lending requirements

Freddie Mac's extensive antipredatory lending requirements derive from both Freddie Mac voluntary policies and the affordable housing goal regulations of the Department of Housing and Urban Development (24 CFR Part 81). Freddie Mac does not purchase or invest in mortgages, including subprime mortgages, that were originated with the following practices, features and terms:

- failure to provide regular full-file credit reporting
- steering toward higher-priced product, and failure to upstream prime-qualifying borrowers to prime products
- failure to comply with fair lending requirements
- refinance <u>or</u> purchase money mortgages with rate or points and fees in excess of thresholds set under the Home Ownership and Equity Protection Act of 1994 (HOEPA)

- excessive fees, *i.e.*, fees that exceed 5% of total loan amount (calculated somewhat differently from the 8% HOEPA points and fees threshold)
- prepayment penalties, unless they meet the following requirements:
    1. benefit to the borrower (usually a rate or fee reduction)
    2. an offer of a non-prepayment mortgage
    3. adequate disclosure
    4. no prepayment penalty upon default
- failure to adequately consider borrower's ability to repay (the lender cannot rely primarily on the value of the collateral)
- arbitration clauses
- single-premium credit insurance

We believe that the anti-steering and prepayment penalty requirements under consideration by the agencies will be particularly beneficial to subprime borrowers. With respect to steering, borrowers should be informed about the mortgage products for which they qualify so that they can select the mortgage that best meets their housing finance needs. Borrowers who seek financing through a higher-priced subprime lending channel should be informed about, and given the opportunity to apply for, the standard mortgage product line if the borrower qualifies for a standard product. Our prepayment penalty requirements are consistent with the agencies' Proposed Statement requiring the existence of a prepayment penalty and its features to be disclosed. Further, these requirements are designed to offer borrowers better choices and better information with which to make those choices.

We also suggest that a requirement of full-file credit reporting will assist some subprime borrowers in improving their credit. Freddie Mac requires the reporting of favorable as well as unfavorable payment information to the major credit bureaus. Reporting of complete credit information about a borrower ensures that future credit decisions about that borrower will be made fairly and potentially at lower cost. Full-file credit reporting is particularly helpful to subprime borrowers who are attempting to improve their credit.

Application of the Statement

The agencies have proposed to establish stricter underwriting and disclosure standards for their regulated institutions' origination of short-term subprime hybrid ARMs. In order for those standards to have a significant chance to transform the subprime market, we suggest that the agencies be as specific about the underwriting standards as possible, and that they implement those specific standards as consistently as possible.

It is also important that the agencies make clear what the scope will be of the new subprime underwriting and disclosure standards. We suggest that the agencies apply these standards to mortgages that the regulated institutions purchase as well as originate. In doing so, the agencies will have a greater impact on the subprime market. As part of the clarity and specificity that we believe are important, the agencies should specify whether the purchase of securitized mortgages is covered by the new standards; and, if so, whether the highly-rated tranches of mortgage securities are covered as well.

Conclusion

Freddie Mac strongly supports the agencies' adoption of the requirement that short-term subprime hybrid ARMs be underwritten at the fully indexed, amortizing rate. We also support the other underwriting standards set forth in the Statement, as well as the proposed borrower protection requirements concerning prepayment penalties and steering. In order to effect the broadest application of these important standards and protections, Freddie Mac believes that the agencies should be as specific as possible in prescribing standards and protections, and as consistent as possible in implementing them. We also suggest that these standards and protections apply to purchase of short-term subprime hybrid ARMs, as well origination of such mortgages. The agencies should also specify whether the standards and protections will apply to regulated institutions' purchase of securitized mortgages; and, if so, to what extent.

Sincerely,

Robert E. Bostrom
Executive Vice President,
General Counsel and Corporate Secretary