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Statement by

Philip C. Jackson, Jr., Governor

Board of Governors of the Federal Reserve System

before the

Subcommittee on Commerce, Consumer, and Monetary Affairs
of the Committee on Government Operations

United States House of Representatives

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Mr. Chairman, thank you for the opportunity to appear before this Subcommittee on behalf of the Board of Governors to discuss the Board's enforcement of the Equal Credit Opportunity Act and the Fair Housing Act.

The Board is firmly committed to the goal of eliminating unlawful discrimination in credit transactions, and to the full exercise of its enforcement powers to assure that banks subject to its jurisdiction comply with these laws.

In keeping with your request, the Board has directed its testimony to the topics of redlining, recent and future enforcement, civil litigation and consumer information. The first questions related to "redlining" regulations and "redlining" monitoring. Unfortunately, the term "redlining" is used to describe a wide variety of credit underwriting practices. Thus, it becomes necessary to describe the practices to which the word applies before responding to questions and issues.

To some, the word "redlining" describes the refusal to consider loan applications relating to properties in a geographic area because of the area's racial or ethnic characteristics. That practice has been declared unlawful by the courts under the Fair Housing Act. It is also prohibited by Regulation B, which implements the ECOA. While it does not

refer to the practice as "redlining," the regulation makes clear that it is unlawful to discriminate against an applicant because of the characteristics of persons to whom the extension of credit relates (e.g., the prospective tenants in an apartment complex to be constructed with the proceeds of the credit requested), or because of the characteristics of other individuals residing in the neighborhood where the property offered as collateral is located.

To others, "redlining" refers to the arbitrary refusal to consider loans in a geographic area without any apparent rational economic basis for doing so. This type of lending practice, to the extent that it may exist, is not prohibited under present Federal law. While several bills on the subject have been introduced in the Congress, none has been enacted.

The Congress has addressed the problems that flow from this latter concept of "redlining" in a different way under the Community Reinvestment Act, which was passed in this Congress. Regulations to implement this act have been published for comment to become effective November 6, 1978.

The fundamental purpose of the CRA is to help the nation's communities by emphasizing to insured financial institutions and their Federal regulators that the standards imposed by Federal banking statutes with regard to the "convenience and needs" of the community being served include credit as well as deposit and other services. The CRA objective is similar to that of the Home Mortgage Disclosure Act of 1975, although the approach taken by the CRA is quite different and promises to be far more effective than the HMDA approach. The HMDA, as you will recall, requires that major

depository institutions in metropolitan areas furnish to the public information about the location of the collateral securing residential real estate loans. This was required in the belief that local public officials and private citizens could take appropriate action on a local level if they had the proper information.

The CRA directs the four financial regulatory agencies to encourage the institutions they regulate to fulfill their continuing and affirmative obligation to help meet the credit needs of their communities (including low- and moderate-income neighborhoods) consistent with the safe and sound operation of those institutions. The Board believes that the CRA approach, which permits evaluation of a State member bank's credit services in the context of local circumstances and the community's perceived needs, may prove to be a more effective way to deal with the problem of geographic redlining than a legal prohibition against geographic discrimination in the extension of credit.

At the same time, the Board recognizes that a better understanding by Federal Reserve examiners and by State member banks of racial redlining and of creditor practices that result in unlawful discrimination will enhance examination techniques and will improve compliance with credit nondiscrimination laws.

As part of a review of our entire program of consumer affairs enforcement, the Board earlier this year contracted with Warren Dennis, a former member of the Civil Rights Division of the Department of Justice, for an evaluation and critique of our civil rights enforcement program. The Dennis Report on the Detection and Correction of Credit

Discrimination was submitted to us in May. Subsequently, the Board and Board staff have been engaged in a review and revision of our ECOA and Fair Housing examination and enforcement program. When the revision is complete, details of the new program will be furnished to the Subcommittee.

To assist the enforcement agencies in monitoring compliance, Regulation B requires a creditor to request information about an applicant's race/national origin, sex, marital status, and age when it receives a written mortgage loan application for the purchase of residential real estate. This information is used for monitoring compliance with the ECOA and with the Fair Housing Act.

The Board has no present plans to expand the detail or scope of Regulation B monitoring information. The regulation applies to many types of creditors that are subject to the enforcement jurisdiction of different Federal agencies. It permits an enforcement agency to substitute its own monitoring program for the one specified in the regulation. The Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation have done so. The Board believes it is preferable to evaluate the effectiveness of these current monitoring programs before considering more extensive data notation requirements for State member banks.

In reviewing our recent enforcement, we find that Federal Reserve consumer affairs examinations of 861 State member banks were conducted between April 1977 and August 1978, and that examiners found

a total of almost 18,000 possible violations of the two acts. The vast majority are procedural rather than substantive violations. For example, of 17,525 relating to noncompliance with the requirements of Regulation B, almost half related to nonconforming application forms (8,000). Another quarter involved incomplete notifications of reasons for credit denials (4,000). Failure to comply with data notation requirements (2,000) and recordkeeping violations (700) accounted for the bulk of the remaining citations. Similarly, the Fair Housing citations (about 300) related almost exclusively to failure to display the Equal Housing Lender poster.

The major substantive violation of Regulation B (almost 2,000 instances reported) related to improper requests for the signature of a nonapplicant spouse. Other substantive violations included failure to give reasons for denials, and failure to report jointly held accounts in the name of each account holder.

Second examinations of 105 banks indicate that about half of them were still not in full compliance. Again, violations were largely procedural: three-fourths related to forms (65 involved applications and 15 involved statements of adverse action). A good number of these institutions have now been brought into compliance after further clarification as to what Regulation B requires. The Federal Reserve banks are dealing with the others on a case-by-case basis.

The Federal Reserve's enforcement program seeks to effect voluntary compliance whenever possible. In most instances, corrective action is initiated by bank management as a result of an on-site,

post-examination discussion. The bank's board of directors is subsequently also apprised of the examiner's findings, and where appropriate a special follow-up examination is scheduled.

Where warranted, the Federal Reserve Bank will take appropriate administrative action against a State member bank. That action includes proceedings under the Financial Institutions Supervisory Act of 1966, which empowers the Board to issue an order requiring a bank to cease and desist from the unlawful action and to correct the conditions resulting from the violation. The Board is also authorized under the ECOA to refer the matter to the Attorney General, who in turn may file an appropriate civil action.

With regard to future enforcement, the Board and four other Federal regulators (the Comptroller of the Currency, the FDIC, the Home Loan Bank Board, and the National Credit Union Administration) have published proposed guidelines for the enforcement of Regulation B and the Fair Housing Act. The guidelines indicate the corrective actions that creditors will be required to take regarding violations discovered in the course of examinations or through investigation of complaints. The proposed guidelines do not directly require a bank to inform an applicant of violations. However, some of the corrective actions that a bank would be required to take will give notice to applicants of the bank's noncompliance (for example, the required resolicitation of applicants in cases where a bank has been found to have discriminated unlawfully).

You also asked about the circumstances under which the Board

would publicly name institutions that repeatedly fail to correct discriminatory practices. The Board does not now contemplate routinely publicizing violations of the ECOA, Fair Housing or other consumer credit regulations. If repeated violations occur and voluntary compliance is not obtained, the Board could decide to make the identity of the institution public.

With regard to possible criminal prosecution against banks or their officers, there is no criminal liability provision under either the ECOA or the Fair Housing Act for any failure to eliminate discriminatory practices. Hence, the Board is without authority to seek criminal prosecution.

The ECOA and the Fair Housing Act do give private individuals the right to sue a creditor for unlawful discrimination. The Board believes that the possibility of money damages and adverse publicity resulting from a lawsuit provides creditors with an important incentive for complying voluntarily. It is impossible to establish the extent to which the civil damages provisions have deterred creditors from unlawful discrimination, but we do know that creditors are keenly aware of the potential liability. Many of them cite their exposure to the civil damages provisions when they write to ask the Board for interpretations of the regulations.

Consumers can exercise their legal rights, however, only if they know about these rights. The consumer education activities of the Federal Reserve inform consumers about laws barring credit discrimination in a variety of ways:

Through brochures explaining the purposes and basic

provisions of the statutes; about seven million copies have been distributed through creditors, Federal agencies, schools, consumer organizations, civic associations, and other community groups;

through public speeches by the staff of the Reserve Banks and of the Board;

through the staff's responses to consumer complaints, including referrals for investigation; and

through other means of an experimental character. The Reserve of Bank Chicago, for example, has been experimenting with information booths at the national meetings of professional groups, and I understand that the response has been excellent.

In closing, I want to emphasize again that the Board is committed to the enforcement of the laws against credit discrimination. We have already taken a number of steps toward this end. We are constantly seeking better ways to do so.