Press Release

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Statement by Governor Randall S. Kroszner

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As Chairman Bernanke has mentioned, the U.S. housing and mortgage market has long been a source of strength in our economy. It has also enabled record numbers of Americans to become homeowners. However, certain practices have led too many people into homeownership that they cannot sustain. When this happens, especially when this happens in large or concentrated numbers, consumers suffer, and their neighbors and communities suffer, as well.

In response to these problems, we are announcing proposed rules, touching many different aspects of the mortgage market, under the Federal Reserve Board's authority as part of the Home Ownership and Equity Protection Act, or "HOEPA," as well as more generally under our Truth in Lending Act, or "TILA," authority. In formulating this proposal, the Board has sought to gather as much information and input as possible.

As part of that process, we invited and listened to an array of informed opinions from consumer advocates, market participants, public officials, individual home owners, and others. In June of this year, I hosted a hearing to receive input about four specific issues--lenders' assessment of consumers' ability to repay mortgages, low- and no-documentation lending, escrowing for taxes and insurance, and prepayment penalties. Following that hearing, we invited public comment and reviewed more than one hundred comment letters. We sought input from the Board's Consumer Advisory Council. We carefully explored the scope of our regulatory authority, the possible consequences of various courses of action, and how different policy options would impact each other. As a result of this extensive outreach, we have developed a set of proposals that are comprehensive and aim to remain flexible and relevant as the market evolves in the future.

Our goal throughout this process has been simple to articulate but, frankly, challenging to perfectly achieve: We strive to protect borrowers from practices that are unfair or deceptive, but to do so without unintentionally causing responsible lending to shrink or unduly limiting consumer choice. Either result would ultimately hurt the very consumers we want to protect. But we believe that these legitimate concerns about market continuity need not keep us from protecting consumers from unfair or deceptive practices.

Our analysis of practices that might meet this test initially focused on the four specific issues highlighted at this summer's HOEPA hearing. As we gathered more data and heard more evidence, however, we decided that we had a responsibility to move beyond these four key issues to provide a more comprehensive set of protections to consumers. A number of additional issues warranted concern, ranging from the incentives that mortgage brokers may face to the timing of relevant mortgage disclosures. These issues arise both in subprime and prime markets and so our proposals concerning these additional issues will apply to most types of mortgages, not just "high cost" or subprime loans.

In addition, our analysis of the data suggests that the troubles in the mortgage market generally arise not from a single practice in isolation but instead from the complex ways that risk factors and underwriting practices can affect each other. To that end, in these proposals, we have tried to keep an eye on both risk-layering and mitigating risk factors as we seek both significant improvements in disclosure along with stricter regulations.

This said, the proposed rules cover the following areas:

- Lenders' assessment of consumers' ability to repay loans,
- Lending with little or no documentation of income,
- Prepayment penalties,
- Escrow accounts for property taxes and insurance,
- Payments by lenders to mortgage brokers,
- Mortgage servicing practices,
- Coercion of appraisers,
- Misleading or deceptive advertising practices, and
- Disclosure of Truth-in-Lending notices early enough to help consumers shop for a mortgage

By taking a comprehensive approach to a wide range of interrelated problems in the industry, we believe that these proposals will provide a robust set of protections for consumers. At the same time, we have worked carefully to craft clear, bright-line rules with which market participants can reasonably comply, making it likely that responsible capital will again flow to traditionally underserved borrowers and communities. In fact, a clear and consistent set of minimum underwriting standards can help not only to protect consumers but also to reduce uncertainty and revive inflows into these markets. Escrows for property taxes and insurance, for example, have become standard practice in the prime mortgage market, and I see no reason why such a practice should not become standard for subprime loans.

When these proposed rules are published, we will seek further comment to ensure that they strike the right balance and offer solutions that are sustainable. When the rules are set, we will work with our fellow regulatory agencies, which will play a critical role in implementation and enforcement. We will continue to work as expeditiously as possible to implement these consumer protections.

Creditors who cannot or will not act fairly and ethically have no place in the mortgage market. Unfair and deceptive practices harm consumers and the integrity of the home mortgage market. Responsible lending should be encouraged to continue in order to fairly meet the credit needs of consumers. But lending that is made unscrupulously or irresponsibly harms consumers and others and erodes faith in our mortgage market. The Board hopes that today's proposal will represent an important step forward in better protecting consumers. We have listened closely and developed a response to abuses that we believe will facilitate responsible lending. In a moment, Sandy Braunstein, Director of the Board's Division of Consumer and Community Affairs, and Kathleen Ryan, staff Counsel, will discuss the details of the proposed amendments. Sandy, Kitty, and the entire staff of the Division have worked tirelessly to build this robust package of rules. We are all deeply indebted to them for their devotion and hard work.

Let me close by acknowledging that these proposals alone will not end all of the problems in the mortgage market. Many market participants have been taking steps toward self-regulation and correction of some of the problems we have seen; we continue to encourage them to do so. Consumers also need to be well-informed shoppers when it comes to the important decisions of buying a home and taking out a mortgage. We do believe, however, that the carefully considered rules that we are proposing today will go far toward ensuring reasonable credit options for consumers while stemming the problems we have seen. We believe that this proposal is sufficiently flexible and comprehensive that it will protect consumers going forward, change with the market, and help to restore confidence in all segments of the home mortgage market.

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