



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
NORTHEAST REGION

DIVISION OF BANKS

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Barbara Anthony
Regional Director

October 6, 2000

Via Federal Express

Honorable Thomas J. Curry
Commissioner of Banks
Commonwealth of Massachusetts
One South Station
Boston, MA 02110

Re: Transmittal Letter Regarding Massachusetts Division of Banks
Proposed Changes to High Cost Mortgage Loan Provisions

Dear Commissioner Curry:

I write to transmit certain Federal Trade Commission testimony concerning issues identified with predatory lending practices and I thank you for the invitation to participate in the Division of Banks ("Division") proposed changes to its consumer protection regulations governing high cost mortgage lending. This transmittal letter identifies portions of the attached statements that you may find of interest to the Division's proceeding.

The Federal Trade Commission, which has jurisdiction, over most non-bank lenders is also involved with addressing certain problems in the subprime lending industry both through law enforcement and consumer education. The Commission enforces a number of laws specifically governing lending practices including Truth-in-Lending ("TILA"), the Home Ownership and Equity Protection Act ("HOEPA"), and the Equal Credit Opportunity Act. In addition to its enforcement duties, the Commission also responds to many requests for information about credit issues and consumer credit laws from consumers, industry officials, state law enforcement agencies, and media.

Over the past several months, the Commission has provided testimony on predatory lending practices in the subprime market. I have transmitted with this letter the Prepared Statement of the Federal Trade Commission before the House Committee on Banking and Financial Services on Predatory Lending Practices in the Subprime Industry, May 24, 2000, ("FTC House Committee Statement"), and the Prepared Statement of the Federal Trade Commission, before the Board of Governors of the Federal Reserve Board on Predatory Lending Practices in the Home Equity Lending Market, September 7, 2000 in San Francisco ("FTC Federal Reserve Board Statement"). Both the FTC House Committee Statement and the FTC Federal Reserve Board Statement propose certain legislative or regulatory remedies for certain abusive practices identified with predatory lending in the subprime market.

I direct your attention to pages 5-6 of the FTC Federal Reserve Board Statement and pages 7-8 of the FTC House Committee Statement which you may find relevant to the Division's proposals to prohibit the financing of single-premium credit insurance and the "packing" of credit insurance and other products. The FTC House Committee Statement and FTC Federal Reserve Board Statement discuss legislative or regulatory recommendations that would prohibit the financing of single-premium credit insurance and other loan "extras" in loans covered by HOEPA. I refer you to the FTC Federal Reserve Board Statement on page 7, which discusses alternatives, including prohibiting the sale of single-premium credit insurance, until after closing a HOEPA loan.

The FTC Federal Reserve Board Statement, pages 7-8, discusses banning mandatory arbitration agreements in HOEPA loans. You may find this section of interest because of the Division's proposal on this subject.

Page 11 of the FTC Federal Reserve Board Statement discusses lowering the HOEPA APR trigger to 8 percent above Treasury rates for securities with comparable maturities. You may find this section of interest as you consider the Division's proposal to lower the APR trigger on junior or second mortgages.

Finally, I would like to refer you to pages 3-5 in the FTC House Committee Statement which you might find relevant to other Division proposals, including "equity-stripping" (loans where the borrower has no reasonable ability of repaying based upon verified income) or "flipping" (the practice of inducing a consumer to refinance a loan, repeatedly within a short time frame).

Thank you again for the opportunity to transmit these materials as the Division considers changes in its High Cost Mortgage Loan Regulations. I commend your efforts to address certain practices identified with predatory mortgage lending practices by non-bank mortgage lenders.

Sincerely,


Barbara Anthony
Regional Director