

Statement of
John D. Hawke, Jr.
Comptroller of the Currency
before the
Committee on Banking and Financial Services
U.S. House of Representatives
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Mr. Chairman, Ranking Member LaFalce, and members of the Committee, I appreciate this opportunity to appear before you today to testify on issues regarding predatory lending practices in the consumer credit industry. Abusive lending practices raise important supervisory issues for the Office of the Comptroller of the Currency ("OCC") and the other bank and thrift regulatory agencies, as well as significant public policy issues appropriate for Congressional consideration.

While there is no fixed definition of the term "predatory lending," I believe we are all aware of abusive practices carried on by a relatively few lenders that would justify that description. Although practices fitting that description are generally accompanied by higher rates and fees, we should not therefore automatically equate subprime lending with predatory lending. There are many responsible subprime lenders who make credit available at rates that reflect the costs and risks of such lending without engaging in the range of abusive practices we have come to define as predatory, and such lenders frequently provide access to credit to borrowers whose options might otherwise be limited.

Those lenders who engage in abusive practices, by contrast, undermine the objectives of longstanding national social and economic policies -- in particular, the promotion of home ownership, and the corresponding benefits of stronger neighborhoods and the building of wealth, for a broader spectrum of American families. This Committee's focus on abusive lending practices is therefore of significant national importance.

The OCC is fully prepared to use its authority to combat abusive, unfair and deceptive lending practices if they are engaged in by national banks. We will employ our supervisory powers -- through our safety and soundness, fair lending and consumer compliance examinations; our licensing and chartering process; and individual enforcement actions to deter lending practices that can be characterized as abusive or predatory.

One common characteristic of predatory lending that we can address through our supervisory process is the practice of making home equity loans under circumstances where the

lender cannot reasonably expect repayment other than through a foreclosure sale of the borrower's home. This is a classic type of unsafe and unsound lending.

To help address this problem, we plan to issue guidance that directs examiners to carefully review lending policies and practices to ensure that they would not permit loans to be made without a reasonable expectation of repayment without resort to the collateral. If the review indicates a heightened risk of problems in this area, our guidance will direct examiners to take appropriate action. Loans predicated on home equity where the borrower does not demonstrate the capacity to repay the loan as structured would be adversely classified and further accrual of interest may be disallowed.

Through our supervisory process, we can also address the adverse fair lending implications of predatory loans. In the near future, the OCC will be issuing additional guidance emphasizing that abusive lending practices can involve unlawful discrimination. Our examiners will be directed to look at factors associated with abusive lending practices that may indicate an increased risk of illegal discrimination. This guidance will help set the scope and focus for our fair lending examinations and may lead to targeted fair lending investigations.

On a related issue, a significant concern has been raised about the appropriate consideration under the CRA of loans -- originations and purchases -- that can be characterized as abusive or predatory. Certainly, it is fair to ask how an institution can be helping to "meet the credit needs of its entire community" if it engages in lending that is designed to strip equity from low- or moderate- income homeowners. We need to address how loans with these characteristics can be identified in a CRA exam. We also need to address the CRA implications of such loans -- specifically, whether they should receive no -- or even negative -- CRA credit. This is a subject that needs to be addressed on an interagency basis by all of the agencies having CRA supervisory responsibilities.

Because of the limitations of the current legal framework, we believe it is important for Congress to address these issues. The bills that are now before the Committee would fill gaps in the current law and address many of the concerns that have been raised, and we believe that they are worthy of prompt and serious consideration.

It is important, of course, to ensure that any reform be carefully crafted to avoid unintended consequences. While we clearly need to address real abuses that exist, particularly in connection with home-secured loans, we also need to preserve and encourage consumer access to credit, meaningful consumer choice, and competition in the provision of financial services to low- and moderate-income families. Determining how to draw the line between predatory and legitimate credit practices in a way that will both combat abuses and advance these other objectives is a major challenge. I commend this Committee for beginning the debate on these important concerns.

Thank you for your allowing this opportunity to present the OCC's views. I would be happy to take any questions you may have.