December 24, 2009

The Honorable Ben Bernanke
Chairman, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Proposed regulations to ban yield spread premiums (Amendments to Regulation Z (Truth in Lending) for Closed-End Credit and Home-Equity Lines of Credit)

Dear Chairman Bernanke:

It is now broadly understood that deceptive and unfair mortgage practices played a pivotal role in steering American families to accept risky and unsustainable mortgages, ultimately driving families into foreclosure and our economy into the worst economic crisis since the Great Depression. We write now to urge you to take strong action on behalf of consumers, home ownership, and financial stability by adopting as final the proposed amendments to Regulation Z that ban yield spread premiums.

Subprime mortgages were presented as a type of loan that would help moderate-income families qualify for homeownership. But when left unregulated and combined with yield spread premiums, they too often stripped the wealth that working families accumulated over many years. Eventually, they stripped wealth from our entire economy.

At the center of this problem were yield spread premiums. As you likely know, mortgage brokers, who held themselves out as financial advisers, were paid points or fees to help a family find a good loan. However, unknown to the borrowers, the broker also stood to earn thousands of dollars in additional bonus payments from the lender – the "yield spread premium" – if he could convince the family to take out a higher-priced mortgage, such as one with an exploding interest rate that forced the family to either pay more or refinance, in either case stripping their equity in the home.

We call your attention to a New York Times editorial published on April 10 entitled "Predatory Brokers", which highlighted this problem. The editorial pointed to a study by the Center for Responsible Lending that found that sub-prime borrowers who used a broker actually fared worse than those who went directly to lenders. They paid $17,000 to $43,000 more for every $100,000 they borrowed. The Times concluded that "The first step must be to outlaw the kickbacks that lenders pay brokers for steering clients into costlier loans." The editorial went on to say that "the most clearly unethical form of payment is the so-called yield spread premium."

A study for the Wall Street Journal found that 61 percent of subprime loans originated in 2006 went to borrowers who qualified for prime loans. It is shameful that millions of American families who could have obtained safe 30-year fixed-rate mortgages were instead tricked by the yield spread premium into the subprime scam.

Frankly, it is difficult to overstate the damage that has been done by these hidden steering payments and dangerous subprime mortgages. Nationwide, an estimated 2 million families will lose their homes this year, and the total of foreclosed families is predicted to reach 9 million by 2012. Minority homeowners have been particular victims of these abusive practices and have suffered some of the highest foreclosure rates. Moreover, the damage was not limited to Main Street. Yield spread premiums – combined with prepayment penalties – were the enablers for the propagation of destructive sub-prime mortgage-backed securities and collateralized debt obligations that brought Wall Street to its knees and devastated our economy.

As the steward of our nation's economic health and the regulator of our banking system, the Federal Reserve must end this dangerous practice. While we wish the Federal Reserve had acted sooner, we strongly believe that the Federal Reserve should act without further delay. Doing so will provide confidence to markets, help reopen lending channels, and, most importantly, protect working families who expect that their most important investment, their home, will help them grow their wealth and their happiness over the long term.

Sincerely,

Jeffrey A. Merkley　　Chris Dodd

Jack Reed　　Charles Schumer

Robert Menendez　　Daniel K. Akaka

Sherrod Brown

Carl Levin

Claire McCaskill

Bob Casey, Jr.

Mark R Warner

Russ Feingold

Jeanne Shaheen

[illegible]

Ben Cardin

S Whitehouse

Ron Wyden

Frank R. Lautenberg

cc: Hon. Elizabeth Duke, Governor, Federal Reserve System