

# United States Senate

WASHINGTON, DC 20510

January 3, 2011

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, N.W.  
Washington, D.C. 20551

*Re: FRB Docket No. R-1390*

Dear Members of the Board of Governors:

We write today as members of the Senate Committee on Banking, Housing, and Urban Affairs, to express our concerns regarding proposed changes to Regulation Z implementing the Truth in Lending Act (TILA) that would erode important borrower protections that have been in place since TILA was enacted 42 years ago.

The extended right of rescission has been an important home-saving legal tool protecting borrowers against predatory loans. A borrower has traditionally had the right to rescind a loan agreement that does not comply with TILA's disclosure requirements within three years of the agreement. The statute and its implementing regulations have long been interpreted to require a creditor to cancel its security interest after receiving notice from a homeowner.<sup>1</sup> The agreement is then rescinded.

The Board's proposed rule would reverse the traditional understanding of TILA's right of rescission by requiring a homeowner to pay off the entire mortgage amount before a creditor is required to cancel its security interest in the home.<sup>2</sup> Requiring a borrower to repay the entire mortgage would render this important borrower right inaccessible to all but the wealthiest homeowners.

The Board has said that it "believes this adjustment would facilitate compliance with TILA."<sup>3</sup> We disagree. The existing order of events creates a balance between the consumer and the lender. The Board's proposal would tilt the balance in favor of creditors who have failed to comply with TILA's disclosure requirements.

In this time of record foreclosures and reports of systemic problems with the operations of the largest mortgage servicers, the proposed revisions are unfortunate and unnecessary. The mortgage market needs greater oversight and accountability to restore borrower confidence lost in the mortgage crisis. The proposed rules would undermine this goal. We urge the Board to reconsider its proposed revisions to Regulation Z.

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<sup>1</sup> See *Williams v. Homestake Mortgage Co.*, 968 F.2d 1137, 1140 (11th Cir. 1992); see also *id.*, at 1141-42 (describing the rescission procedures under Regulation Z).

<sup>2</sup> See 75 Fed. Reg. 58539, 58694 (2010).

<sup>3</sup> *Id.*, at 58548; see also *id.*, at 58629.

Thank you for considering our views on this important matter.

Sincerely,



Sherrod Brown  
United States Senator



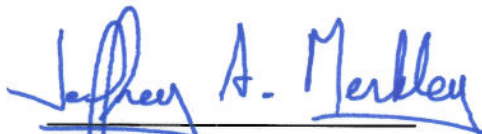
Christopher Dodd  
United States Senator



Jack Reed  
United States Senator



Daniel Akaka  
United States Senator



Jeff Merkley  
United States Senator



Tim Johnson  
United States Senator