From: Highland Financial Company, Kristi Reesman

Subject: Regulation Z -- Truth in Lending

Comments:

The majority of mortgage brokers doing business long term in their communities have been ethical, honest individuals. Mortgage lending isn't any different than a local restaurant, if you poison your customers, word gets out and they stop coming! HVCC was unnecessary for those of us who never used our positions to coerce, bribe or threaten an appraiser - those actions were illegal and immoral already.

There are two major problems that HVCC and this final rule fail to take into account. You will cause direct damage to the party you should be protecting, the consumer, until they are addressed.

1. Just because someone has an appraisers license does not mean they are knowledgeable, ethical, moral, or good at what they do - therefore the 'judgments' of these people are not infallible. The main protection that a consumer has to ensure they have purchased a quality product is the ability to dispute payment when the product they receive is faulty. Some appraisers are churning out poor quality products, with no oversight. The only people who know the appraisals are flawed are those with direct knowledge of the subject property (the owner and the mortgage originator who interviewed the owner, the real estate agents) and these are the exact people prohibited from talking to the appraiser. In the last year since implementation of HVCC, I have seen more errors in appraisal reports that ever before. One report showed a 3 bedroom subject as only having 2 bedrooms - the appraiser forgot to sketch one bedroom and the mistake carried through entire report, even though county records, permits, and the home itself clearly showed 3 bedrooms. Another appraiser used a map from 2008 that did not show a major freeway bypass bisecting a neighborhood with a soundwall and failed to disclose that most of his comparable sales came from this neighborhood, who values were blighted by the bypass. The subject was not in the affected neighborhood, therefore the resulting appraised value judgment was wrong by $100K. This appraiser got paid - the damaged party who got ripped off by the appraiser: the homeowner and the mortgage broker, who both worked hard, in good faith and were de-railed by this bad appraiser. The appraisers must be accountable to the consumers paying for the report.

2. The jumble of laws and regulations promulgated by the Federal Reserve, HUD and other agencies are tying the hands of originators because they have created Catch-22 situations. For example, the appraiser's fee must now be commensurate with the job at hand, the geographic area and the property. Sounds fair, but you also mandate that the Good Faith Estimate must reflect the exact fees to be charged to the borrower, the good faith estimate must be accepted by borrower prior to ordering an appraisal, we can not know who the appraiser is prior to receiving the completed report, so how in the world can we get an accurate appraisal fee price to put on the report? Any rules you come up with need to include instructions on how they are supposed to interface with other laws and rules.

Local business people and residents know who the good appraisers are and who the bad ones are in their local area. The Federal Reserve, Fannie Mae, Big Banks and the AMCs located thousands of miles away have no clue. There must be a provision allowing either the homeowner or the originator to be able to say "I do not want that person to appraise my home." You must see the unfairness of forcing a homeowner to pay a vendor who perhaps the homeowner has had problems with in the past. HVCC gives the appraisers too much power once an order has been assigned to them and no accountability. They are paid regardless of the accuracy or competency of the report and that is wrong.

You must understand that for low to moderate income homeowners, an appraisal fee of $400-600 (the standard fee range since HVCC was adopted) can represent 25% or more of their monthly income. That is a lot of money to spend on a gamble with no accountability. Prior to HVCC, my conversations with appraisers about value prior to completion of the report were not intended to coerce a higher than fair value. They were to determine if we should proceed from the standpoint of consumer protection. For example: an elderly consumer on a fixed income wants to refinance her primary residence. She owes $100K, therefore in order for her to successfully refinance, her home would need to appraise before. Prior to HVCC, if my appraiser advised me that most of the homes in this consumer's neighborhood were selling in the $90K range, then I could advise my client not to waste her $400 on an appraisal. Ethical appraisers and originators liked this because ethical appraisers don't want to see a consumer pay for a product that does not benefit them. Now, HVCC forces this poor lady to lose $400 to find out that she can not refinance. Your final rule must address this consumer protection.

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