April 4, 2008

Board of Governors
Federal Reserve System

Regarding Proposed Rule Amending Regulation Z

Docket Item #R1305

Dear Sirs:

Hello – My name is Denyce Frey and I am a mortgage broker in the State of Florida. I have a couple of stories I would like to share in order to address the in the changes proposed in Docket Item #R1305 to Reg Z.

I helped two couples in 2002 purchase a vacation condo on Vero Beach, FL. Both couples are college graduates in professional careers. These are highly educated and intelligent people. Last week I got a call from them because they need to refinance out of a bad loan they took out a couple of years ago on the property. The hurricanes in 2005 had ravaged the area and the condo association had special assessments required to update and improve the stability and safety of the condos. They went to their local bank Washington Mutual and could not believe the great deal they got – 1%. Oh yes, these incredibly intelligent people were SOLD by SALESPEOPLE not licensed professionals a very deceptive and bad loan. Now two years later they call me because they need to refinance again to get out of this horrible loan. They have lost 20,000 in equity in the property and the payments are now over $2300 a month. The problem is they have a 5 year pre-payment penalty totaling over $12,000. These people trusted their local bank to fully disclose and accurately explain the mortgage to them. They believed what they were told and now they are paying for that trust. If these people can be conned into signing these documents – what chance does a normal Joe have?

My issue is this – if the loan had been done by a broker – the borrowers would have some recourse. They can go to the Florida State Website and file a complaint against the broker's license. They can file against the brokerage business as well and if the brokerage wishes to save their reputation and respect in the community, as well as save their business, they would be forced to find a way to resolve the issue. The same is not true for these banks, like Washington Mutual, Wells Fargo, National City etc.

The problem with the mortgage business is not brokers and brokerage houses – it's the uneven playing field the Federal Government has allowed. Make everyone in the "game" play by the same rules! Please consider the following:

In Florida we have state laws that require all broker to be licensed. I believe all originators should be licensed as well – but that is not currently the case. No one should be able to quote a rate and discuss terms without having the educational background and passing the regulated tests required to be a licensed mortgage professional. In Florida we also have state laws requiring us to disclose the maximum yield spread premium and broker fees associated with closing the proposed transaction. This is required to be disclosed at the time of application. These rules are working and make sense. The laws also require the Truth in Lending statement to be issued along with the Good Faith Estimate so the APR is accurately disclosed from the time the deal is being negotiated. Attempting to disclose accurate fees and premiums prior to application is a waste of time and is nearly impossible. Without a complete application I have no idea what type of loan this potential client may qualify for or what rate/terms and fees will be associated with the product they select, since all lenders charge different fees for different products – this information would never be accurate.

Instead of adding to the already too long mortgage loan package how about if we simplify things. Let's do away with the redundant disclosures and create one simple form for each item. One disclosure for credit, one for yield spread, one for insurances etc. I also believe we should be focusing on the read-ability of these forms. Right now they are overwhelming and nearly impossible to understand – even for the highly educated as my story above highlights.

I think the idea of a National Registry is GREAT – along with a National Complaint Dept and a National Resolution Department. But it should apply to *any and all* mortgage originators. I think yield spread premium should be disclosed – *by all originators* not just brokers - at the time the client locks in their mortgage rate and estimated prior to that. If the original estimate varies greatly from the original the borrower still has time and recourse.

I think it is great that the Federal government is choosing to step in and try to help protect the consumer. High cost loans should be identified as such and should be red flagged to the consumer as well. I do not agree with the proposed new calculation for high cost loans. If we use the 3% over the US 10 year Treasury guideline – then all Fannie Mae My Community loans and all Freddie Mac Home Possible loans would be considered high cost loans. At a time when Mortgage Backed Securities are being sold for pennies on the dollar and forclosures are sky-rocketing telling a bank the rate they are offering is a High Cost Loan is obsurd. The only avenue Banks and Lenders have to re-coup their losses is to make it up going forward. This will not lower interest rates – it will just make **ALL** loans high cost. Doesn't that defeat the purpose? This model is too restrictive really needs to be re-addressed.

I have heard so many rumblings about "Liar Loans" I feel the needs to address this as well. No Doc and Stated Income loans have value and purpose. These loans were greatly miss-used and we are paying the price for that now – however – to take these tools away will only hurt the small business owner and self-employed entrepreneur. Aren't they the back bone of our economic system? Why are we singling them out with this change? Lenders have already changed the program guidelines to reflect only "self employed" individuals are now able to qualify for these programs and even the low doc options with Fannie and Freddie have restricted guidelines and loan programs available. Let the market handle these issues – and they are – no government regulation is required to fix this problem.

Which brings me to my next point; Lenders and Large Banks design mortgage programs – not mortgage brokers. The banks along with Fannie Mae and Freddie Mac determine what guidelines, programs and rates will be available to the consumer. This is where the problem lies, not with the brokers that match the best product to the client. A No Doc loan never should have been made available to a consumer with a low credit score, little or not payment history and no down payment. These guidelines were too loose and again were presented to brokers and lenders as viable options. If we didn't do these loans, someone else at the local bank was going to.

I am lucky in that I am privileged to work with a brokerage that allows me to sell the products I am comfortable with and doesn't force me to push particular types of loans. I have long said, "I have to make a living but I also have to sleep at night." I can't do that knowing I put a family's futures at risk. I never originated any pay option arm loans and I didn't do many sub-prime loans. Of the sub-prime loans I did do – I was careful to get my clients the best products available to them. This again is the problem with the lenders and the products they offered to low income, low credit score clients.

I have worked hard, fair and honest and I have a long following of loyal clients. I have not seen a drop off in business and I have active referrals that continue – because of the type of business I do. I tell all my new clients to shop rates and fees but also to shop businesses – check the license of the professional you are working with and if they are not licensed don't even consider them. My clients appreciate this inside information and when they look at my years of service with never one complaint and glowing recommendations they don't think twice about doing business with this "broker".

I closed a loan yesterday – a refinance transaction with a borrower whose middle credit score is 660. He had a pre-payment penalty with his current mortgage with Wells Fargo. This loan was a nightmare to close because Wells Fargo wouldn't issue the payoff until they talked to the client personally. They told his he was crazy to trust a broker and if he thought for 1 minute he'd get a rate below 8 he was nuts. After 2 weeks of waiting, they finally sent the payoff – he paid the prepayment penalty out of pocket and was happy with the 5% rate on the 15 year fixed rate mortgage – which was actually ¼ lower than the original offer. This man refused to continue to be a victim of the harassment by another big bank and was willing to pay to get away from them. Yet by some of the changes you are proposing you are encouraging the public to make themselves victims.

At least, make these banks accountable for their deceitful practices and make them disclose their fees and premiums paid to their unlicensed salesman/loan officers. Allow the American consumer to have a choice in the way they want to be treated. I'm afraid these changes would make brokers completely ineffective and unable to compete for business at all.

Removing the ability of a broker to earn yield spread premium is only further tying the public's hands. At a time when values are falling and so many people owe more than the standard 80% of the value of their home, we should not be taking away one of the avenues of paying closing costs. Yield spread premium is being used more and more often to pay for the closing costs on a mortgage so the borrower doesn't have to pay cash – most are not in a position to write a check. What are we trying to accomplish with this change? We already have to tell the client on 3 separate forms that the bank will be paying us money. Why is that not enough? What good will come from this?

On a personal note: We recently refinanced our own mortgage. We paid off our home equity loan along with our old first mortgage and rolled them into one new mortgage. A month or so after the closing we received several messages on our home answering machine: "This is your mortgage company National City – you need to call us immediately regarding your account". After double checking with the closing agent that the mortgage had been paid AND closed we called them back. They were only interested in pressuring us another HELOC. This is just another example of the tactics used by the BANKS – not the brokers to manipulate the public.

We do need to make changes to the current regulations and I think the public needs to be protected from bad and deceitful business practices in financial markets as well as all others. I don't think targeting mortgage brokers is going to have the desired affect. I think we will end up going backwards. Back to the days of higher rates, higher fees, long waits for closings and only banks able to borrow money for mortgages. Brokers were created for a reason and provide a valuable service to the population. Let us continue to do our jobs.

I greatly appreciate the opportunity to put in my 2 cents and I hope you will take us small time, honest, hardworking people into consideration before you sign a document that will single-handedly erase our existence and livelihood.

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