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Subject: Reg Z - Truth in Lending

Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Comments:
There is a patently negative bias in much of the recently proposed and recently passed legislation against the smaller players in the financial services industry; seemingly in spite of the fact that small companies like ours employ a significant number of people. As I read it, this proposal will eliminate companies like ours (which number in the 10"s of thousands nationally), actually decrease competition in the residential mortgage market and increase unemployment. In the end, whether a consumer uses a small mortgage brokerage company or a large national bank, the end-resulting mortgage typically gets sold on Wall St as a mortgage-backed security. The price these securities will fetch is driven largely by the free market; certainly small companies like ours have no influence on the end pricing of the security. It is on this playing field that we must compete against the big-players in the market, such as Wells Fargo or Bank of America. (Side Note: small companies have had to fend for themselves through the financial crisis. We did not get any bail-out money) The big-players, using financial assistance provided by the taxpayer, can collect service release premium ("SRP") upon the sale a mortgage loan they have originated or purchased. Call it what you will, but there is little difference between SRP and yield-spread premium ("YSP"). In the end, it is a payment back to a loan-originating source that is dependent on the loan pricing. As I read the proposals, it looks like banks may retain the YSP as well, but will "shield" this information from the loan originator. The argument is that the loan originator would not be able to "steer" a client towards a particular loan type that would benefit the originator if said originator was not privy to the YSP information. It may benefit the Bank, but as long as the LO does not benefit than that"s OK? Banks would be allowed to set pricing policies for their mortgage loan offerings taking into consideration the fees
they would earn from both the SRP and YSP. Mortgage broker companies would effectively have to compete without the benefit of either SRP or YSP (NOTE: By

definition, mortgage brokerage companies do not collect SRP). Mortgage brokerage companies will cease to exist. If these proposed changes are to be fair and equitable to all residential mortgage concerns, please stop giving banks preferential consideration in these proposals that comes at the expense of mortgage brokerage companies. Practically every good that comes to market does so through a supply channel consisting of wholesalers and retailers. Small mortgage brokerage companies must obtain wholesale sources for mortgage funding and compete against other retail mortgage outlets, again such as BoA & Wells Fargo. While many companies like ours pride ourselves on the excellent service we seek to provide our clients, we must also provide a competitive price. It is largely through the efficiencies that smaller companies achieve (i.e. less overhead, flexibility, fewer levels of management) that we can be competitive with larger companies. The ability to compete with an inherently smaller cost structure was perhaps the single biggest impetus in the growth of mortgage brokerage companies in the US. Unfortunately, perhaps the second biggest factor driving the growth of mortgage brokerage companies was the proliferation of so-called "sub-prime" mortgage products. Almost anybody who could hang out a shingle got into the mortgage brokerage business as this picked up steam. The number of mortgage brokers would more than double over a two-year period; while the professionalism of those joining the market would decline proportionally. The dam break driving the creation of these new sub-prime shops was the hunger for sub-prime collateralized mortgage obligations ("CMO") on Wall Street. What created that hunger? The exorbitant fees the "investment bankers" were enjoying packaging & selling this crap to gullible investors. Thanks to firms like Goldman Sachs blessing these CMO"s with their AAA investment rating, they could and did sell practically anything they could package together. Mortgage-backed securities suffered a degradation of quality over this period that was unbeknownst to the investor. Companies like Goldman Sachs or Merrill Lynch, who were guarantying these offerings, understated the risk to their investors and received a sizeable fee; even as CMO"s, which at one time consisted of 3% sub-prime mortgages or less, flip-flopped to 90%+ sub-prime backed. Banks like Chase, Citi, etc. pushed their wholesale mortgage representatives to bring in as much business as they could find. It was so lucrative, credit standards and underwriting departments were forced to turn a blind eye to application discrepancies and outright fraudulent information. It was about volume, not quality. If you compensate people exorbitantly to write this kind of business, you will find business. ou will find a lot of business. Everybody was making BIG BUCKS at the ultimate expense of the investors and the taxpayers. "If you build it, they will come." This is where the government should be focusing their efforts. Legislate better quality control on the issuance of CMO"s. Legislate more disclosures on CMO"s. Legislate fee limits based upon the risk profile of the underlying assets of a CMO offering. Legislate that the underwriters of these CMO"s take some of the risk. Instead the focus seems to be at the opposite end of the supply chain. Regulators are clamping down on Main Street instead of Wall Street! When the underlying risks became apparent and Wall St couldn"t sell these things anymore, guess what happened? Most of the sub-prime wholesalers and mortgage brokerage shops went out of business. Was that because the unscrupulous people selling these products got religion? No, it was because Wall St"s greed caught up with them. Wall St Investment Bankers, together with the big bank players like Chase & Citi single-handedly collapsed the Mortgage-Backed Securities Market ... period. Incidentally, many of the broker-folks who brought you fraud-laced sub-prime mortgages can now be found in the Loan Modification business; a current growth industry I hear. It is a crime that the mortgage brokerage industry is cast as the scapegoat in this debacle. This is a very short-sighted perspective on what collapsed the markets. Many of the people left standing in our industry are the good people who were here prior to the sub-prime mortgage proliferation. Most of our companies like ours business comes from former clients. You do not get repeat business by taking advantage of your customers. Perhaps the biggest irony is that the companies who will stand to gain from this legislation are the very same big-players our tax dollars helped bail out (Wells Fargo, BoA, etc.). This single bill could wipe out the entire mortgage brokerage business. In the end, will that better protect American consumers? Will that create more competition in the mortgage marketplace? Will taking away no-closing cost loans help the consumer? Will more declarations, definitions, disclosures and explanations in the current mortgage package help? I don''t think so. Congress is chasing squirrels when they should be hunting bear. I have no problem with improving disclosure of the annual percentage rate ("APR") to consumers. I agree that it should include most fees and settlement costs. It should not include property-specific items such as homeowners insurance or property tax escrows. Consumers should be informed what their monthly payments can increase to at adjustment. Any penalties, late fees and other charges should be clearly delineated. Certain features that are deemed to be riskier, such as negative amortization should be highlighted. Requiring lenders " ...to show consumers how their APR compares to the average rate offered to borrowers with excellent credit" is a waste of time and paper in my opinion. This will cause more confusion for the average consumer and will not really clarify anything. For example, if I have an applicant who does have excellent credit and does indeed qualify for the best rate available and they lock their rate for 45 days, the lock price would, by definition, be higher than the average rate offered as a "spot price" or at a closing table today absent any rate lock. Really, this will be a problem. Prior to recent legislative changes, consumers received a final TILA at closing. If there were material differences in that statement, consumers had several avenues available to them to receive satisfaction. Are there really that many people getting blindsided by surprising TILA''s at their closings? Was that part of the problem? If so, by all means, proceed. If not, let''s not "fix something that ain''t broke." The three (3) business days before closing notice requirement is causing consumers problems. It sometimes means a consumer will lose their rate lock. In the case of purchase transactions, this, together with other notice requirements, is delaying folks from moving into their new home by one (1) to four (4) weeks. Any reputable mortgage brokerage company would support any legislation that assists the consumer in understanding the terms, the costs, the penalties, etc of any proposed mortgage product. Someone needs to look at this entire process from the consumer side and make changes to simplify the entire process. Consumers receive a Good Faith Estimate, an initial TILA, a TILA if there are any material changes, and a final TILA. In addition, they receive: a Fair Credit Notice, a Mortgage Broker Fee Agreement, a Mortgage Broker Fee Disclosure, an HVCC Appraisal Order Form (containing an estimated appraisal cost), a Servicing Disclosure, a Privacy Policy Notice, Patriot Act Form, etc., etc., etc. Some of these require three (3) business days before anyhing else can be done. HVCC appraisals typically cost more, are of lesser quality and can not be transferred from one lender to another. Time to close is becoming a problem. Really ... the whole process is becoming a nightmare for the consumer, for mortgage originators and for realtors. We are overwhelming the consumer with information. I can not underscore this point enough. Consumers ARE OVERWHELMED with information they receive pertaining to their mortgage application. By all means, protect the consumer. But can you help them too? And maybe, just maybe, help us to help them?