

From: Consumers Financial Company, Matt Stout
Subject: Reg Z - Truth in Lending

Comments:

Date: Sep 24, 2009

Proposal: Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs (Regulations H and Y)

Document ID: R-1368

Document Version: 1

Release Date: 08/26/2009

Name: Matt Stout

Affiliation: Consumers Financial Company

Category of Affiliation: Other

Address:

City:

State:

Country: UNITED STATES

Zip:

PostalCode:

Comments:

Neighborhood Mortgage Brokers are under attack by BANKS. New legislation threatens to make something illegal for brokers but not for banks. It's called Yield Spread Premium (YSP), and elimination of it could spell the end of mortgage brokers, competitive rates, and no-cost loan flexibility. Regulation Z - Truth in Lending - Closed-end Mortgages [R-1366] challenges whether paying YSP to brokers should be legal. Definition: YSP is profit made in the mortgage industry by "marking up" a wholesale rate to a retail rate. It's an up-front payment by the lender or the "next up the food chain" in anticipation of the revenue that the loan will generate when it is sold up the food chain to the next owner. It's a way to share those profits with the broker. It happens all the way up the "food" chain as loans are sold. Everyone up the chain in the mortgage industry benefits when a higher rate is sold to the customer. It's simple economics. It generates more revenue. Banks want to make it illegal for brokers to receive it. Argument FOR eliminating YSP: YSP causes brokers to steer borrowers into high cost loans. My name is Mark Hammond, and I've been in mortgage lending since 1994. I'm a mortgage broker, and I haven't seen a high cost loan in about 2 years. They don't exist. Subprime loans are gone. And mortgage laws have made it very easy for borrowers to compare loans "apples to apples" from one company to another with the APR. Let's be frank. For most brokers that I know, YSP accounts for about half of their revenue, revenue that is necessary to pay their employees and stay in business. Banks, who earn money in the same way, would love to see mortgage brokers put out of business and you can believe they will try to eliminate YSP for brokers. It would kill their biggest competitor. Neighborhood mortgage brokers collectively close more loans than all banks combined. Brokers have already been dealt an unfair hand with the law that

requires them to disclose the YSP amount to their borrowers 7 times (seven different disclosures) during the loan process, while banks are exempt. When I worked as a loan officer for Wells Fargo, I made YSP commissions for selling a higher rate to the customer and I didn't have to disclose it to the customer. Then I became a broker and had to start doing so. How is that fair? Bank loan officers are also exempt from mortgage licensure laws, don't have to pass tests or have pre-licensing education. Why? They do the exact same thing as brokers do. Both brokers and bankers are benefiting from selling a higher rate to the client. So does every industry that sells interest rates. It is already unfair that brokers have to disclose the YSP. Banning the earning of YSP for brokers gives banks an additional grossly unfair advantage over the neighborhood mortgage broker. YSP is a difficult and awkward thing to explain to clients and causes confusion and even lost business. How would it be if you bought a pair of pants and the clothing store told you, "we made \$15 dollars by selling you these pants"? Even if you thought the price was good initially, it would fill you with doubt. And it's no indication of anything valuable to the consumer. The clothing store achieved low wholesale costs and the mortgage broker achieved low wholesale rates. Would you shop for a pair of pants based on the profit that the clothing store was making? NO. Comparing loans by their profit margin only adds more confusion. The APR was designed to help borrowers compare loans. They just need use it. Here's another example. If I own a car dealership and I buy a car wholesale for \$20,000 dollars and resell it for \$25,000 dollars, is it any of the customer's business what I paid for it or how much profit I made? NO. Is the \$25k price unethical? NO. Consumers are expected to seek out the best price as in all of their purchase decisions. Would we require the car dealer to disclose their profit to the buyer? NO. Further, would we require the car dealership to sell the car for the wholesale price of \$20,000 dollars (foregoing all profit) and simply charge a sales origination fee instead? Of course not! Then why would we impose those ridiculous restrictions on mortgage brokers? Interest rates are our product as mortgage brokers. We work hard to find and set up relationships with the lowest rate lenders to keep our costs low so we can be competitive and make a profit. Then we sell the rates at a slightly higher "retail" rate to the consumer and difference is profit. Every other business (and Bank) in America does the same thing. There are tight limits placed on these profits already, meaning that after the wholesale rate is raised by about .5% (5.0 to 5.5%), there is no more incentive to raise it any further. Most brokers never raise the rate that high, but even if they did, the payment difference is very small, as I'll show in a minute. YSP BENEFIS THE BORROWER In the case of the car dealership, the buyer doesn't directly benefit from paying the \$5000 profit. But YSP has multiple benefits to the borrower. YSP makes no-cost loans possible (flexibility for borrowers) YSP allows for tremendous flexibility to give the clients a loan that fits their needs. For example, if they would rather pay no closing costs because they don't intend to keep their home long enough to recoup the costs, they can pay a higher interest rate and have the YSP pay for the loan costs. HAPPENS EVERYDAY YSP benefits borrowers with difficult or challenging situations If a fence company sells a job on a steep hill, they will charge more to do that job. In any business, the business owner has the right to charge more money for more difficult jobs. YSP helps compensate brokers who take on more difficult loans to help serve clients with complicated situations (credit repair?) that require extra work and experience. If brokers are restricted by how and what they can charge borrowers that need extra help, those borrowers will be turned away by the only brokers who have the know how to get the job done. YSP ensures that enough incentive is

there to help ALL borrowers, not just borrowers that qualify with ease. YSP benefits borrowers with little or no equity to pay costs Very often borrowers don't have the equity or cash on hand to pay the standard fees, not to mention any extra fees to handle their difficult situation. This can leave them stranded with no one to help them, but with YSP there is an alternative way to cover those costs, a way that costs the borrower very little in monthly payment difference. Example: \$150,000 loan @ 5.5% pays 0 YSP and has payment of 851.68 \$150,000 loan @ 5.75% pays \$1500 YSP and has a payment of 875.35 What a great way to help the less affluent borrower pay the loan fees! \$24 dollars a month added to the payment. People refinance on an average every 3 to 5 years. In three years they would have only paid \$864 dollars at \$24 dollars a month. This is clearly a cost efficient way to pay loan fees for the consumer. And when a home buyer comes up short for cash to close the purchase of their home, who is there to help with the money to close? The broker with their YSP. Brokers are the lubrication in the mortgage business. We make things happen for people, and YSP is often the tool. If you want to help the "little guy" or those that need the most help, don't outlaw YSP! **BROKERS KEEP BANKS IN CHECK** If you really want to stick it to the American borrower, get rid of YSP and brokers. Brokers' rates consistently beat banks rates whether they make YSP or not. America needs the neighborhood mortgage broker to keep the banks in check and keep rates low. Personal example! When I worked for Wells Fargo as a mortgage loan officer, I was continually losing customers to nearby mortgage brokers who offered my clients lower rates than the bank would offer. I was told by upper management that "if we had the best rates we wouldn't need you" (meaning loan officers to "push" the higher rates). So I was expected to sell higher rates by being a "slick" salesperson. I eventually quit to become a broker so I could find the best rate for my clients. Competition lowers prices and keeps monopolies from forming. Bank monopolies are the reason our economy is in trouble and is so fragile. Eliminating YSP for brokers could spell the end of mortgage brokers, which will give banks full control of lending and more dangerous monopolies will form. America needs this collective pressure that mortgage brokers apply to banks. Neighborhood mortgage brokers usually live in the communities where they make loans. They are accountable in their communities to do right by the consumer. They keep in touch with their customers and work through warm referrals from clients and friends. They maintain close relationships of trust with their clients. And they provide personalized service. After all the problems that banks have caused in our country and in the world, do you really want to vote for legislation that will help banks squash out neighborhood mortgage brokers and their wholesale partners, an enormous group of Americans providing for their families.