From: Luke Scaramella

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:
The changes proposed to Regulation Z by Section 226.36(d), Prohibited Payments to Loan Originators will negatively impact consumers through the reduction of choice and through the unnecessary restriction on options they would otherwise enjoy which would allow them to manage the various costs associated with obtaining or refinancing a mortgage. The Board specifically seeks comment (Federal Register page 43245) about "alternatives to the proposal that would further the purposes of TILA and provide consumers with more useful disclosures" . In that regard, submitted with this comment is a position statement and proposed one page addendum, which if used in conjunction with the detail information presently contained on the Good Faith Estimate (before the HUD Regulation X changes) will much more directly "further the purposes of TILA and provide consumers with more useful disclosures." As the position statement explains the misunderstanding that resulted in the carve out of what is commonly referred to as Yield Spread Premium has taken the mortgage disclosures in a direction that fails to further the purposes of TILA and confuses the real issue while making comparison shopping much more difficult. By applying the very straightforward recommendations in the position statement and by using the shopping tool in conjunction with information that is already generally available, the Board could add tremendous value to the Regulation Z changes without the negative consumer and business impact implied by the current proposed changes. Thank you for reviewing the explanation and suggested changes. Please seriously consider them. They represent a "real" consumer oriented alternative that will achieve the Board's and TILA's objectives. It is the position of IMPACT Mortgage Management Advocacy & Advisory Group (IMMAAG) that the term "Yield Spread Premium", thrust into the mortgage industry taxonomy over 17 years ago, is a misnomer. The term has caused so much debate and effort in the name of clarification and transparency, that we have collectively lost focus on the real issue - to make it easier for consumers to

effectively comparison shop and to make informed decisions. The misconception that created the acronym "YSP" has given rise to disclosures which now obscure rather than illuminate and confuse rather than clarify. Studies cited by the Federal Reserve Board (FRB) and other governmental agencies have demonstrated that the current disclosures do not achieve their objectives with respect to improving the consumer's comparative shopping experience. The result of the flawed idea about "YSP" has led to a new Good Faith Estimate being implemented January 1, 2010 which will hurt consumers by reducing rather than increasing transparency and reducing choice while it hurts mortgage loan originators by forcing estimates that will necessarily be higher and will disserve the very goal of accurate estimating. The FRB has proposed changes to Regulation Z. Some of the changes are also based on the long standing misconception that a "premium" or "discount" value assigned to one interest rate versus another represents a "kickback" or "rebate", instead of simply the calculated present value of the expected future revenue generated by the asset. The changes resulting from the flawed idea that created the term "YSP" have led to proposed compensation changes that will have a negative impact on both consumers and loan originators. Further, the continued focus on how lenders choose to use the revenue generated from their mortgage loans only distracts from the important issues of competitive pricing and consumer protection, while it sabotages the intended goal of creating disclosures which allow simple, clear consumer loan comparison shopping. The Yield Spread Premium Misconception Loans are offered to consumers for the simple reason that they are revenue producing assets. The revenue produced by the combination of closing costs and the interest payments is used to pay for the costs associated with mortgage sourcing, marketing, origination, and servicing processes; including collection, credit risk management and of course, some amount of profit. Regardless of whether the lender or a third party performs any or all of these functions, the consumer ultimately bears these costs either on the front end or through the interest paid over the life of the loan. This simple fact has been lost in the unproductive debate about the artificially created and carved out item called Yield Spread Premium. With the emergence of independent mortgage brokers and originators, lenders gained access to a large, efficient and competitive variable expense based third party distribution channel to market and originate the lenders' loan products. In response, lenders created "rate sheets" which are functionally similar to any other product manufacturer's price sheets. The rate sheets facilitate the lenders' need to ommunicate the amount they are willing to pay the third party for the performance of its services based on the revenue the lender expects to receive from the loan at any given price. In this case the lender's price is represented in the interest rate. In its simplest form, the consumer pays the lender in some combination of front end costs plus interest and the lender must pay for all expenses associated with marketing, originating and servicing from those consumer payments. While it goes without saying that if the lender receives more revenue, e.g. from a higher interest rate, everything else being equal that loan offers more value and the lender may reward the originator for that value in the form of a higher payment for the services provided. That in no way "hides" anything from the borrower that facilitates comparison shopping. 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