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To Whom It May Concern:

As a mortgage broker, and member of the National Association of Mortgage Brokers (NAMB), I write to you today expressing my concerns with the Federal Reserve Board Proposed Rule amending Regulation Z - Docket No. R-1366 (F.R. Fed. Reg. 43232). While I believe it is necessary to address remaining problems in the mortgage market, the Proposed Rule will ultimately only harm me, the small business mortgage professional, and the consumers I serve. I request that you strongly consider my concerns before issuing a Final Rule that could negatively change the mortgage market landscape, and impede a recovery of the housing industry.

I am greatly concerned with The Board's proposals addressing originator compensation. The main alternative would eliminate yield spread premiums (YSP) and remove a vital consumer choice in how to finance a loan, and limit competition in the mortgage market by choosing winners and losers. Furthermore, the Board recognizes that YSP provides a benefit to consumers, but inaccurately characterize it as an unfair or deceptive practice that can be used to steer consumers. Choosing to finance closing and origination costs through the rate allows borrowers to purchase and start building wealth through their home without requiring significant outlays of cash in addition to the downpayment at the outset of the loan. YSP allows consumers to compensate originators for origination services when they pay none, or only some of the origination fees or closing costs up front. This is a legitimate and legal way for borrowers to finance those upfront costs through the interest rate. I believe it is important for The Board to recognize and consider the unintended consequence that will be caused if the proposal is made final.

The second alternative proposed regarding originator compensation will require consumers to pay for services rendered in connection with obtaining a loan either all up front or all on the back end of through the rate. The proposed rule will remove interim rate financing options for consumers, potentially limiting their ability to obtain loans or forcing them to take on more debt over time. For example, if a consumer desires (or is required in order to qualify) to pay some upfront fees to reduce the overall costs to be financed over the life of the loan and hence partially reduce their monthly payment (as opposed to financing any costs through the rate); they would not be allowed to do so. Instead, if they do not have enough cash to cover all of the costs up front, (or simply want to preserve some cash on hand), their only choice would be to finance all of the costs through the back end at a higher interest rate, higher payment and overall higher debt.

The Board proposes sweeping changes to current mortgage disclosures that I believe cause fundamental problems of practicality and potential consumer confusion. I request that you consider the following policy recommendations:

- Revise language of the Proposed Rule to permit either the creditor, or a mortgage broker or third-party originator, to provide the required pre-application disclosures.
    - Because the Board has not defined mortgage brokers or other third-party originators as creditors, and these originators are often the ones making first contact with consumers and taking applications, the Proposed Rule poses a compliance problem for creditors, mortgage brokers and other third-party originators.
- Eliminate the disclosure of APR, and instead require disclosure of payment terms, settlement costs and monthly payment.
    - Board testing showed that consumers do not typically understand the APR and do not use the APR effectively as a shopping tool.
- Establish a reasonable tolerance threshold, within which certain terms could change after the final TILA disclosure but prior to closing without requiring re-disclosure and without triggering an additional waiting period.

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In closing, I would like to present the following policy recommendations that I believe The Board should strongly consider when developing a Final Rule. Small businesses offering mortgage loan origination services will be negatively and disproportionately impacted by the Proposed Rule. For this reason, I cannot support the Proposed Rule because it will not serve the best interests of the consumer or the market.

1. Withdraw the proposed prohibition on payments to loan originators that are based on the terms or conditions of a loan.
2. Delay implementation of any final rule until Congress has acted on currently proposed legislation that would create a new Consumer Financial Protection Agency
3. Permit either the creditor, or mortgage broker, or other third-party originator to provide the required pre-application disclosures.
4. Eliminate disclosure of the APR and instead require disclosure of payment terms, settlement costs and monthly payment.
5. Establish a reasonable tolerance threshold, within which certain terms could change after the final TILA disclosure but prior closing without requiring re-disclosure and without triggering an additional waiting period.
6. Ensure that loan originators retain their ability to receive compensation as a percentage of the loan amount and not just a flat fee.
7. Adopt an anti-steering rule that does not affect the mechanism for providing direct and/or indirect compensation to a mortgage originator, does not limit or affect the amount of compensation received by a creditor, and does not restrict a consumer's ability to finance the fees and costs associated with a loan transaction into the loan amount or rate.
8. Require originators to disclose the lowest interest rate the creditor would accept on a given loan.
9. Address all "up selling" in connection with mortgages and other financial transactions, not just YSP.
10. Compliance with the Administrative Procedures Act.
11. Mortgage companies should be treated in the same manner as lender companies. Mortgage broker companies operate on net profits after all income and expenses and treating them differently from lender companies (some of which have fewer loan originators than mortgage brokers) is bad policy.

The Board's goals to simplify and clarify disclosures for consumers and prohibit anti-steering are not successfully accomplished through the proposed changes. In fact, the changes, as planned, fail to achieve those goals and contradict their overall purpose. The offered amendments to Regulation Z make the entire mortgage process more complex for borrowers, exacerbate and compound the already complicated practices that exist, and most importantly, eliminate consumer choice. Therefore, the Board should withdraw the proposed amendments, perform more qualified consumer testing (utilizing the results in an effective manner), and engage and confer with seasoned, knowledgeable industry experts to obtain credible and useful participation to ensure a successful and effective resolve to achieving the Board's objectives.

Sincerely,

Gene Tricozzi

Registered Mortgage Broker – NYS Banking Department
Loans arranged through Third Party Lenders