

From: Stanley D. Blake
Subject: Regulation Z -- Truth in Lending

Comments:

Date: Dec 26, 2010

Proposal: Regulation Z - Truth In Lending Act

Document ID: R-1394

Document Version: 1

Release Date: 10/18/2010

Name: Stanley D Blake

Affiliation:

Category of Affiliation:

Address:

City:

State:

Country:

Zip:

PostalCode:

Comments:

To: Board of Governors of the Federal Reserve System From: Stanley Blake Date: 12/26/2010 Re: Regulation Z - Truth In Lending Act [R-1394] I am writing to express my concern on the issue of "customary and reasonable" fees for appraisers. I have been a real estate appraiser and small business owner for over 35 years. In those years I have been able to market my services to banks, credit unions and mortgage companies and establish long-term client relationships with individuals and business alike. It is estimated that AMCs controlled only about 10-15 percent of mortgage appraisals prior to the Home Valuation Code of Conduct (HVCC) and about 70-80 percent immediately thereafter. Prior to the HVCC I was able to compete with others in the market on the basis of experience, quality and customer service. After HVCC, I found that although I have more experience than any other appraiser in the market I work in I had no more standing with AMC's than anyone else. And because of the changes resulting from the HVCC, rather than continuing the client relationships that had taken decades to establish and continuing to market my business services to new clients I spent countless hours filling out applications to be added to AMC provider lists. And instead of competing on the basis of experience and quality I was competing only on the basis of price and turn time. When roughly 70 percent of the business falls in the hands of a handful of firms who have nearly the same business model, some questions need to be asked. Bank management should be deeply concerned about potential RESPA violations, as charges assessed on consumers must be consistent with actual services performed. I wonder how a situation where an AMC, who's conducting an administrative function that is largely automated, that charges nearly as much or more than an actual appraiser, who's providing a professional service, complies with this law. I have also questioned why AMCs retain a portion of the appraiser's fee for themselves. The AMC provides no services to the appraiser. If the services they are providing is to the bank or lender, it is they who should pay the AMC's fee and identify this fee separate of the

appraisal fee on the HUD 1 Settlement Statement. My concern over the Interim Final Rule (IFR), regarding "customary and reasonable" fees for appraisers is that the Federal Reserve Board appears to provide two distinct presumptions of compliance, with respect to customary and reasonable fees under Dodd-Frank, saying that AMCs, lenders and others can meet the standard by satisfying either presumption, without having to meet both. The first presumption outlines "customary," which seems to mean "recent" fees paid to appraisers by AMCs- the status quo in other words. The second presumption, which outlines "reasonable," calls for the use of independent fee studies that specifically exclude fees paid by AMCs. So the two presumptions of compliance seem to contradict each other by making compliance, in effect, customary or reasonable. The IFR mentions the VA fee schedule as one possible benchmark for customary and reasonable fees but leaves the question open. Many in this industry believe VA fees are an appropriate standard however, some believe that VA fees may not be useful because they represent the "highest" allowable fees in a market area not fees that are "customary or reasonable." However, as a VA approved appraiser, my understanding is that VA fees do not represent the highest allowable fees as many believe, but rather are intended to be a fair or "reasonable" fee that ensures two things: that a quality report is produced and that veterans do not pay a premium for the service. In addition, one local bank that has chosen to avoid AMC's had a survey done to establish the customary and reasonable fee for each of the areas within the state and produced a fee schedule very similar to the VA. Many of the appraisers I know have either left the business or adjusted to working harder and longer for less money. But just because appraisers are adjusting doesn't make the current situation good for the profession or good for the public, who may be receiving reports of diminished quality due to fee and turnaround time pressure.