From: "Curtis Shiflett" <curtis@apexhomeloans.com> on 04/08/2008 01:05:03 PM

Subject: Regulation Z

Good afternoon,

My name is Curt Shiflett and I am a resident of Gaithersburg, MD. I am also one of 9 employees of Apex Home Loans, Inc., a Mortgage Broker located in Bethesda, MD. I am writing to address the proposed rule put forth by the Federal Reserve Board regarding changes to Regulation Z.

While I welcome your efforts to make the lending process more transparent to buyers and borrowers, I feel that a few areas of the ruling have missed the mark and are not focused on consumer protection, but constitute merely financial punishment for brokers. I also feel that an unintended consequence of these proposed actions would be to push consumers into more expensive loans as they will not understand the role of a broker and/or will believe a broker's compensation to be an added cost to their transaction when it is not.

Consumers are largely unable to distinguish between brokers and lenders, which have similar names, use similar signage, and rely on similar advertising, which is part of the reason I respectfully oppose the proposal to restrict compensation for the services mortgage brokers offer. Mortgage brokers serve as intermediaries between borrowers and lenders, while not being beholden to either one. This is an important distinction, especially when compared to loan originators who work directly for a lending institution. Over the past few years the lines have been blurred between lenders and brokers as more and more lenders package and re-sell the loans they originate. The difference is that if a consumer goes to a lender for a loan, the only options they will get are the products and rates that particular lender offers. Or worse, they may get offered or talked into whatever product the originator's employer is paying a bonus on that month. Brokers, on the other hand, are able to offer a wide variety of products and rates as they typically have access to numerous lending institutions.

As brokers, we believe in the importance of comparison shopping, but the disclosure requirements in the new rules put brokers at a significant disadvantage. It is undisputed that Brokers have originated 60% or more of all mortgages in the past several years. In a Market Economy, the only way that this could be the case would be if Brokers offer a better price, better service, are more efficient, or some combination of the three. It's clear that U.S. Consumers have chosen the Broker as their preferred service provider for their mortgage transactions. If that is the case, Consumers should not need to distinguish among mortgage originators other than from price, service and efficiency. Both government policies and the marketplace should be set up to permit consumers to get the best deal at the best price with the best service, regardless of whether they use a broker or deal directly with a lender. Requiring brokers, but not other loan originators, to make up front disclosures regarding their profitability on a transaction will inhibit competition, which will limit consumer choice, increase prices, and hurt borrowers. Specifically, only Brokers are required currently to disclose their profit on a loan (their Yield Spread Premium or "YSP"). The new proposals would put us at a greater disadvantage. This is likely to cause consumers to choose not to use a Broker because of the more convoluted process and morass of confusing information that only Brokers would have to provide. This seems unfair to the Consumer, since they've spoken through their actions and have said that they prefer to use Brokers more times than not.

It is also important to understand that Yield Spread Premiums are much more than just compensation. YSP is also often used to pay certain costs to facilitate the loan transaction. Most commonly, YSP allows a broker to deliver the loan of choice to the Consumer, a loan with no "points" or fees up front. But often, YSP is used to be able to provide a "No Cost" transaction to the consumer where the Broker involved can utilize some or all of the YSP to pay for the closing costs the borrower would otherwise incur. Fees similar to YSP are present in any mortgage origination distribution channel, regardless of whether a broker is involved. Mortgage broker compensation, <u>including</u> YSP, already are disclosed on both the GFE and HUD-1 forms, even though there is no corresponding requirement for lenders to disclose compensation paid to their own sales staff. Currently, Mortgage Brokers are the only service provider in the mortgage arena that actually disclose every penny they earn on a transaction.

Would you ask a local, family-owned hardware store to disclose its profit margins, and then say that the Home Depot down the street doesn't have to? Would you require only locally-owned car dealers to provide invoice costs and profit margins on their vehicles but not dealerships owned directly by the large auto manufacturers? Because that is what is currently required, and by adding an additional disclosure it would only be making the discrepancy worse. A large retail lender could charge the same amount for a loan as a broker, but at first glance the lender may appear to be a better deal because they do not have to list their profits explicitly. The lenders will also be able to use their knowledge of this fact to attempt to steer unknowing borrowers away from Brokers by incorrectly saying the Brokers are more expensive. As a perfect example of this, I ask you to please review the two in depth studies that the FTC performed regarding Mortgage Broker YSP disclosure. Both of these studies determined that when a larger emphasis on YSP compensation to Brokers was required, borrowers more often than not chose more expensive loan options as they were confused by the YSP disclosure. If the Federal Reserve feels that compensation fees should be disclosed to consumers, then it should apply equally to ALL mortgage originators, not just brokers so that there is not an un-level playing field. Otherwise, the result of this proposed requirement will be to tilt the playing field in favor of the larger companies and away from the Consumers preferred choice – the small business service provider.

In addition to the unfair disclosure, the new rule also requires that fees and YSP amounts listed on the estimate forms cannot change. It is vital that this proposal be revisited as this is not a practical requirement in the real world. It is impossible to give a reasonably precise dollar estimate of fees a broker will earn in a transaction before an application is submitted because the broker does not yet know the prospective borrower's financial status, transaction details, type of product sought, amount of loan, or how much work will be required of him or her to complete the transaction, all of which may vary as the transaction progresses. This would be akin to asking an auto mechanic how much it will cost to fix your car without letting him look under the hood first.

Due to the reasons stated above, I ask you to reconsider the disclosure portions of Regulation Z and create alternatives that would protect consumers in their dealings with all mortgage originators. Thank you for your time and consideration.

Sincerely,

Curt Shiflett
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