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Subject: Regulation Z

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**Board of Governors of the Federal Reserve System
Proposed Rule Amending Regulation Z**

Let me start by saying that the proposed Fed Rule Impedes Brokers' Ability to Compete and Hurts Consumers.

The Board of Governors of the Federal Reserve System recently proposed amending Regulation Z, which implements the Truth in Lending Act and the Home Ownership and Equity Protection Act.

The proposed Fed Rule would put in place some useful consumer protections, but it also would impose significant burdens on mortgage brokers. In particular, the proposed Fed rule would require brokers, but not other mortgage originators, to disclose the specific dollar amount which the broker would earn from a transaction, including yield spread premiums. That disclosure would have to be made *before* the consumer paid any fee to any person, *and* before submitting an application. Brokers may only receive compensation disclosed in that manner. If there is no such disclosure, the mortgage brokers cannot be paid by any amount by any party, lender or borrower.

HUD already requires disclosure of yield spread premiums in both the GFE and HUD-1. However, the Fed believes additional disclosure is needed from brokers, but not other originators, to protect consumers because, the Fed claims, consumers believe that brokers are a "trusted advisor" who are bound to get the best possible deal for borrowers, but do not view other originators in the same way. ***The Fed has taken this position even though exhaustive studies of mortgage disclosures by the Federal Trade Commission, the government's principal consumer protection agency, in 2004 and 2007 show that additional disclosures of mortgage broker compensation created confusion, caused consumers to choose more expensive loans, led to a bias against broker-assisted transactions, and impeded competition, thus hurting consumers.***

I do support the consumer protection points of the proposed amendment, regarding appraisals coercion, advertising misrepresentation etc..., but I strongly oppose the limiting the compensation to the broker. I would also oppose the elimination of all stated or low documentation loans.

I would like to explain that a broker serves both the borrower and the lender but represents neither the borrower nor the lender. We are simply the person that brings them together. When a borrower uses a broker the broker can shop the best deal for the borrower. If a borrower goes directly to a lender/bank/credit union then they will only get whatever that entity is going to give them. Most borrower do not have the time nor patience to shop more than one or two lenders.

It is funny to me that agencies such as yours want to restrict and regulate the brokers but not originators for the lenders and banks. Yet each bank and lender also has wholesale channels to get loans from the brokers. We are in competition with these lenders and banks as they sell the majority of their loans rather than service them themselves. So why would ABC Bank charge their clients one rate but allow brokers access to their wholesale channel at lower rates to provide to others and possibly even their own clients? Because the bank or lender is keeping what you call the YSP for themselves no matter how great it is and they don't have to disclose it. Yet you want the broker to disclose it before we even know if the borrower is qualified or what their credit or lending criteria is. If you want to force the industry to over disclose then at least make all brokers and originators have to do it the same way as to keep the playing field equal. By forcing brokers to do one thing and banks and direct lenders to not have to make these disclosures you will be forcing the brokers out of business and thus hurting the consumer when it was the consumer that you wanted to help in the first place.

When you state that you want to restrict YSP received by a broker you are eliminating an important tool that we use to be competitive with the banks and lenders. If a bank or lender decides that they will make a "no closing cost or \$1000 closing cost" loan they are using what they make on the back, or the YSP, to pay for the closing costs. Many times we brokers will use some or all of the YSP to pay down closing costs for the borrower to be competitive. Now if you restrict what a broker can make in YSP we cannot help the borrower get better deals than are being offered by the banks. Again, make the playing field equal for all parties.

In the proposed amendment you state that a broker is supposed to disclose the loan terms, closing costs, fees and everything before an application is taken. That is not possible. We live in a time of risk based pricing which simply stated means that the bigger risk you are to the lender the more the lender is going to charge you in interest and/or points. The only way to know what someone qualifies for is by carefully evaluating their credit, income, assets and debt to income ratios. So if a broker was to quote a borrower one rate and set of fees based on what the borrower stated their income and credit was, he would be stuck with those terms when the credit came back lower and essentially could owe money if the loan were closed. No one is going to do that thus the broker could not do the loan and the borrower would have to go start over somewhere else when they could have just altered the terms of the loan and re-disclosed rate and fees. Also, if a broker has to do this why not all originators? Because no one would ever get any loans closed and the consumer would be the loser.

Regarding low documentation loans. A recent borrower of mine made almost \$30,000 a year. His CPA wrote nearly all of it off so that he showed no income because the IRS allows over 40 cents a mile to be written off for work related mileage. Since he drove nearly 50,000 miles a year this was a \$21,000 write off. Throw in some depreciation and a cell phone bill and the borrower has no or little tax liability. Now does that really mean that he didn't earn any money last year? No. His gas and service expenses were only about \$7000 and his cell bill was \$800. On a stated loan the borrower can state that he makes \$22,000/year based on his P&L. But if you take that type of stated loan away he can only go off of his tax return for a full doc loan and thus would not ever qualify for a loan. Do you have any idea how many borrower are self employed, 1099, or 100% commission? All of these type of borrowers fall into the same pitfalls when trying to get a full documentation loan. So once again this amendment would be hurting the consumer rather than helping them. I do agree that some borrowers (primarily investors) probably abused these loans over the last five or six years in an attempt to flip houses. However that is why the direct lenders and Fannie and Freddie make guideline changes all the time based on defaults, risks and about a thousand other things that would make your and my head spin. Thus they will adjust the guidelines to curtail that activity. No need to punish the brokers and consumers.

I would strongly encourage the FED to reconsider the proposal and make all originators and brokers have to do the same disclosures and same training. I would also recommend that the FED try to think of some alternatives to the amendment that would be fair and equitable and encourage competition in pricing and service between all brokers and lenders involved, instead of trying to hamstring the brokers at the benefit of the banks and direct lenders.

In closing I want to thank the Board of Governors of the Federal Reserve for considering these comments and look forward to seeing their amended amendment. Please do not hesitate to contact me for further questions or comments.

Thank you and Have a great day!

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