Subject:	Regulation Z
Date:	Mar 27, 2008
Proposal:	Regulation Z - Truth in Lending
Document ID:	R-1305
Document Version:	1
Release Date:	12/18/2007
Name:	Stephen Silver
Affiliation:	
Category of Affiliation:	
Address:	9595 Six Pines Drive Suite 8210
City:	The Woodlands
State:	TX
Country:	UNITED STATES
Zip:	77380
PostalCode:	

Comments:

Dear Board of Governors: My name is Stephen Silver. I operate Silver Mortgage Funding LLC in Houston, Texas. Since 1980, I have served as officer/owner of mortgage brokerage and mortgage banking companies and have served as a consultant to several large financial institutions operating nationwide. I've also been quoted by newspapers and journals nationally and internationally...plus am an author and speaker on financial, real estate and mortgage issues. After reviewing the "Proposed Rule Amending Regulation Z (Truth in Lending and HOEPA) I'm compelled to respond with comments. Of course, I'm in support of the consumer regulation goals of the proposed amendments to Regulation Z, I can see major problems resulting if implemented in its current form. First, it appears that mortgage brokers are being singled out to hold a higher standard of disclosure than banks or mortgage banks. While I'm not at all opposed to higher standards of disclosure, singling out brokers for this higher standard is unfair. Everyone knows that banks and mortgage banks receive the equivalent of "yield spread premium" and in addition receive additional premiums...both are undisclosed to a consumer both before this "proposed rule" and after....putting the mortgage broker at a clear disadvantage in the mind of a consumer, while in reality causing the consumer to pay more if originating their loan directly with a bank or mortgage bank. In other words, tainting the broker who in reality is likely providing the consumer with a lower rate loan and a higher quality of service than a typical retail bank or mortgage bank. And, it’s disingenuous to assume that a bank/mortgage bank is really the provider of the loan and not a broker themselves, when they typically package and sell off a large percentage of originated loans. Witness the recent collapse of Bear Stearns and their lack of transparency. The consumer has an advantage when dealing with a broker because most brokers “shop around for rates” among many different banks/lenders/wholesalers...while only obtaining one credit report for the consumer. But if the consumer shopped around at many different banks, their credit would likely be damaged due to multiple credit reports being obtained by the different banks and mortgage banks. This feature of credit scoring is enormously damaging to the consumer and must be addressed. This...more than anything else, interferes with a consumer’s ability to “shop around” for the best-deal. A mortgage broker...as middle-man...both serves as a source for better loan pricing for a consumer along with a source of business for the different banks and mortgage banks. The independence of a mortgage broker is essential because of this fact. Meanwhile, mortgage brokers also compete directly with the retail operations of banks, so by definition...to get business, it’s in the broker’s interest to find the best rate and fee combination for a consumer. It’s really a stretch to see “banks” as somehow different from “brokers” when you watch TV and print advertising. And I can show you example-after-example of clients getting better rate/fee combinations from a broker who brokers the loan to the wholesale side of a bank vs. higher rates/fees when the exact same bank issues the loan on the retail side. The truth is, in general...the consumer obtains a lower price and rate when working with a broker than going directly to a bank. Plus the consumer gains choice....in a similar way to when a consumer buys insurance via an independent insurance agent vs. going directly to an insurance company to buy insurance. Choice lowers costs for the consumer. And most consumers no longer differentiate between an independent broker and a bank or mortgage banker. Isn’t this obvious? If the goal here is disclosure, then everyone needs to disclose the same items. If a broker must disclose his compensation from brokering a loan, shouldn’t a bank or mortgage bank do the same? After all, it’s likely they’re also brokering the loan somewhere. One of the most impractical provisions of the proposal is the requirement of estimating fees/compensation prior to taking an application. That’s impossible. The reason is, until the borrower provides a complete application, credit reports and supporting information, there’s no way to know whether the loan could be an FHA loan, a VA loan, an Agency loan or some other type of loan. And the type of loan affects pricing. In the simplest example, current credit score adjustments for AGENCY loans dramatically increases the rate the consumer pays. Because YSP is frequently used to assist the buyer with closing cost, there’s no way to know what’s needed until the loan’s underwritten. The proposal will be nearly impossible to comply with. Another proposal that conflicts with market conditions is the “high-cost-loan” proposal with a 3% trigger over 10-yr Treasury rates. As you certainly know....the spreads of Agency Bonds over 10-yr Treasuries has been rising, recently as high as 2.7% A 3% trigger, in essence, will cause most if not all loans to be labeled as “high-cost loans” thereby further limiting credit and accelerating the problems that the recent shutdown in liquidity caused...basically a death spiral for consumer access to mortgage products. I can’t see any reason for this and another definition for “high-cost loans” would be a solution. In summary, consumers are best served when they have access to the most choices at the lowest cost. Consumers see little difference between a bank, a mortgage bank or a mortgage broker when obtaining a mortgage...therefore disclosures need to be the same. A mortgage broker survives by providing more choices with better service to the consumer. And the quality-control is doubled...both at the broker level when submitting the file and then at the wholesale underwriting level when they review and underwrite the file. If these proposals are fully implemented, then a retail bank or mortgage bank will provide even fewer consumer choices and disclosures...while the broker is held to a higher standard than even a multi-national bank! The outcome will certainly be higher rates and higher costs with less disclosure and transparency to the consumer if these rules are adopted as the banks and mortgage banks get a “free-ride” and the consumer again is further damaged. And an invitation to another phase of “non-Agency” type lenders that we saw develop in the late 1990s to fill the vacuum. History about to repeat. Perhaps we’ll see “Next Century Mortgage” soon. Please feel free to contact me further about any issues relating to this topic. Sincerely, Stephen Silver 281-362-8886
