

From: "Patrick McHenry" <pmchenry@pmchenrybroker.com> on 03/28/2008 04:55:03 PM

Subject: Regulation Z

TO:

RE: DOCKET NO. R-1305 – PUBLIC COMMENTS

My name is Patrick McHenry.

I reside in Naples Florida.

I am a licensed mortgage broker in the State of Florida and would like to comment on the proposed amendments to Regulation Z.

First, I would like to make it clear that I support your goals to increase consumer protection by the proposed amendments to Regulation Z. Having said that I must respectfully express my opposition to the current proposal in that it in its current form it will restrict fair compensation between mortgage originators.

Mortgage brokers compete daily with both other mortgage brokers AND with the direct lenders. It is typical in today's world for both the originators for the lenders and mortgage brokers to be packaging and reselling the loans they originate. As such both the lender and the mortgage broker are performing virtually the same function. If the mortgage broker is to compete in the fair and open market with the direct lender than the Regulation Z disclosures should apply equally to ALL mortgage originators, not just brokers.

It must be kept in mind that the consumer often does not see a distinction between the mortgage broker and a representative of the lender. We use similar names, signage, advertising and "jargon". That being the case it is clearly an unlevel playing field for the lender to not be required to expressly disclose the same information as the broker to the consumer.

One of sensitive areas is that of Yield Spread. When the regulations require ONLY the broker to disclose the their gross income from the transaction the implication to the borrower is that we are taking a fat check and placing it in our pockets. The truth is that all overhead and expenses not attached to that individual transaction (as disclosed on the HUD) must be paid out of the Yield Spread. The direct lender may be making the same, similar or even more Gross Income but has no regulatory requirement to disclose to the consumer. In the real world when I am required to disclose compensation to the consumers those entities that are not required to disclose (lenders) can and do steer the consumers toward themselves as though they were not taking their compensation out of the transaction. In many cases this "no compensation to the originator" loan originator will ultimately be offering less favorable terms and conditions to the consumer.

Another concern with the currently proposed regulation is the requirement to disclose an exact dollar value for all mortgage broker fees (front and back) before application, a value which cannot change. It is impossible for a mortgage broker to have a reasonable precise dollar estimate of fees and costs for a transaction at or before origination. How can I be held to a mortgage broker fee before I know what the

transaction costs and lender compensation (YSP) structure looks like?

The function of the mortgage broker is to shop the available marketplace to find the most appropriate rate and terms for this particular consumer's unique set of financial circumstances and goals. At the time of origination the mortgage broker has not yet ascertained the borrower's true financial status, the transaction detail structure as required by the yet to be selected lender, the ultimate product of program or often even the amount of the loan allowed by the lender. All these details are in flux until a point after loan origination, submission and conditional approval by the lender. In the real world the lender regularly change the programs and counter offer the terms between submission and clear to close. In fact some lenders will not allow the mortgage broker to even lock rate prior to receiving a full and complete loan package with all supportive documents ready to underwrite.

It is my hope that the Board of Governors of the Federal Reserve will only enact regulation that treats all mortgage loan originators as equal and set a stage where we all can compete on a true and accurate price and service basis. We only ask for a level and fair playing field so that we can openly compete in the marketplace to the advantage of the consumer, the American Way. If the mortgage broker is to be put out of business may it be by the consumers choice that what we bring to the table does not have the value that we must charge as compare with other mortgage loan origination sources. May we NOT be put out of business by a Federal regulation that unfairly favors the direct lender over the mortgage broker and reduces fair competition in the marketplace where the consumer always loses.

Thank you for taking the time to consider my thoughts.

Patrick McHenry
Naples, Florida