From: Mike Hoffstein <sandstone@optonline.net> on 03/28/2008 08:45:03 PM

Subject: Regulation Z

Comments Submitted on

Proposed Rule Amending Regulation Z (Truth in Lending and HOEPA)

Mike Hoffstein

Merrick, New York

I started in this industry 22 years ago, and after a distinguished career or 15 years with the same lender, starting at the bottom and after aspiring to the level of Vice President, I choose to open my own company as a mortgage broker. Every borrower which has submitted an application knows who I am, and knows how to reach me. I go out of my way to meet every applicant, if not in person, over the telephone. I have not had a single complaint from my borrowers nor partner lenders, despite originating a host of complicated loans.

We originate both residential and commercial loans for our clients. We usually get repeat business from the same borrower, or their family members, and their friends, years later.

Accountants, Lawyers, Finance, and Real Estate Professionals, recommend my company because they recognize my value. They find that my services render their clients a benefit.

In fact, brokers originate over half of the loans in this country. Obviously there must be a significant value Mortgage Brokers contribute to the origination process. Sometimes the differences are in intangible aspects of lending.

1.) Disclosure Issues:

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.

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 they do not view other originators in the same way.

The facts withstanding, brokers have provided financing to borrowers at lower cost due to

effective management of overhead, and being able to shop a loan through competitive wholesale channels, while also keeping measure on expectations. Mortgage brokers provide their services as an intermediary between borrowers and lenders, and the value the mortgage broker adds in to the real estate transaction by serving BOTH parties, but by representing NEITHER. In many cases these services are vitally necessary. The value of their services are incalculable.

Origination with "Large Lenders" and "Mortgage Brokers" often vary in extremes.

a.. We urge the Federal Licensing of all Mortgage Loan Originators regardless of for whom they originate loans. Any solicitor of mortgage loans should be accountable and knowledgeable, and physically based in the United States.

Large Lenders often recruit low wage inexperienced workers, to whom they provide minimal training, often times, in a boiler room like environment, to originate sales, or branch employees that get incentives to take applications, but have no or little knowledge of the mortgage process. The loan is then transferred to a call center usually providing scripts and prompts to get from one station to the next. Decision makers hide behind voice mail, after the sale and loan decision is already made. The mantra quantity, quantity, quantity, breeds quality, quality, quality. As a broker I have had a very high closing rate because I help all parties involved come to terms, one deal at a time. Most lenders are not there to coordinate the inception of a transaction.
Managers and executives who work for lenders are paid large bonus and salary combinations for increasing applications, sales, and profits. The main choice is to either apply for the advertised rate or not apply at all. Exceptions are made well into the process, even if it requires a new set of terms. Borrowers are only given that lenders retail choice of products as options. Clever advertisements and a strong branded image often drive the sale (pricing is not the main issue at a branch level). Disclosures follow several days later, but are not read or explained to the borrowers, and if questioned, the sale is already made.

Mortgage Brokers on the other hand, often start working for lenders, and realize the potential to grow a career in mortgage lending. Not constrained by the specific and often limited offerings of a large lender, the broker can make specific and valuable recommendations, not only during taking an application, but on structuring a transaction from beginning to end, product selection, and to help overcome issues that affect quality of life and home ownership well beyond the simple closing of a sale. A mortgage should fit a client like a well tailored suit, not a can of beans from a shelf.

Permanent and temporary interest rate buy downs, credit explanations, and host of other concepts, and details surface when dealing with a professional that can structure a loan to individual needs. Many Americans find their way through the mortgage process applying through a local independent professional, face to face.

a.. We commend and support for the consumer protection goals of the Federal Reserve Board's proposed amendments to Regulation Z, but respectfully oppose the proposal to restrict compensation for mortgage brokers

Question: When a broker sells a loan through consultation, should that limit his ability to derive income from a loan, or should it be commended by the fed?
Holding "Mortgage Brokers" to a higher disclosure standard than their industry counterparts in not only unfair, anti-small business, but highly anti-competitive, and will drive small mortgage brokers and small bankers out of business. Either all originators should disclose all fees and premiums earned by their originator and their respective companies or they should not,

The Worst Misconception is that a broker's yield spread premium is any different than the premium, and servicing release premium, that is earned by a lender that uses a warehouse line of credit to close a loan.

The reason that the GSE's designate lender's to be a "Seller Servicer" is so that they can separate themselves from the maintenance feature of servicing a loan and receive remittance on a specific schedule. Due to economies of scale,
only the largest lenders retain the servicing in house. To be equal, a minimum
servicing spread is required by the GSE's, just in case they have to take over the servicing responsibilities. The additional servicing spread is retained yield to the lender. How is that much different than a Yield Spread Premium? It is simply either sold for cash or collected over time. Do you think the borrower should know about this form of income? I do. The burden of fee disclosure and income restraints should be equal across the board. Excess servicing fees are premiums which are accounted for differently, but they are calculable, willful, and known.

The premium for which a loan is sold for into the secondary market, is usually determined before the loan closes at the table. To close an uncovered loan is to assume interest rate risk. Lenders and brokers of all sizes avoid interest rate risk. They lock in the rate before closing. The un-hedged loan is irresponsible, because it exposes the holder to immense losses. A lender sometimes does not deliver on his best efforts commitment because he has the potential to sell the loan (at larger gain) elsewhere, after the docs are drawn, and the loan is closed. They only do this as an exception if the market
improves.

Lenders, banks of all sizes, and mortgage brokers, all make sure that the loans
are saleable, and the rates are locked in before closing. Mortgage brokers are
increasingly responsible for buy-backs, as are lenders. Just read the wholesale agreements broker's are asked to sign. Does the warehouse line of credit (credit card) lenders use in-order to close a loan with significantly change the income or revenue, of the loan at closing, and or the price the borrower is paying. I think not. The anticipated revenue, or hedged premium should be disclosed regardless and uniformly.

I suggest that the Fed consider alternatives to the proposed regulation which would protect consumers in their dealings with all mortgage originators, and encourage competition on price and service.

Warehouse lines are a convenience to the lender so that they can control the flow of funds.

Any subsequent revenue earned after closing is irrelevant, because it takes place after closing. Please note that this behavior (willful non-delivery) is often a contractual breach to deliver because best-effort commitments still means that the loan is committed for delivery to the designated secondary market participant if closed. These non-delivery transactions are tolerated to
a degree, but, they drive up the cost of hedging thus, they drive up the cost of originations industry wide.

Lenders try to pretend that they should not disclose their premium until it is earned by way of the sale of the loan. They know their income unless the loan is rejected by their investor. Brokers have the same repurchase risk, except that the lender will request the difference of the disposition loss to be repaid by the broker since the loan is funded at the table.

A borrower is not capable of recognizing the differences between apples and oranges.

Mortgage brokers must compete with direct lenders. The distinctions between brokers and lenders have blurred in recent years. As lenders themselves typically package and resell loans they originate. Consumers are largely unable
to distinguish between brokers and lenders, which have similar names, use similar signage, and rely on similar advertising.

Unscrupulous originators, who work for lenders which are not required to disclose premiums, often tout the premiums as excessive fees when they are knowingly actually much more expensive. In the real world, requiring brokers, but not other loan originators, to make compensation disclosures enable the brokers' competitors to steer consumers away from brokers, even if brokers offer more favorable loans

a.. Insist that any disclosures apply equally to ALL mortgage originators, not just brokers

Loan premiums have become a vital way of making lending more affordable. Through loan premiums temporary interest rate buy downs have helped first time borrowers afford the first years in a home without needing adjustable rate mortgages. They have also allowed many home loans to take place with reduced, little, or no fees for new and existing home owners. The options that the yield spread premiums provide benefit the industry achieve home ownership. To eliminate, segregate, or limit this tool from a select group is simply mass suicide for a select class or originator. Mortgage Brokers need to compete with lenders on a level playing field.

a.. As a last point it is impossible to give a reasonably precise dollar estimate of fees a broker or lender will charge in a transaction even before an
application is submitted because the broker does not yet know the prospective borrower's financial status, transaction details, type of product sought, or amount of loan, all of which may vary as the transaction progresses. What ever
disclosure requirement the Board of Governors of the Federal Reserve considers,
they must protect consumers, they must be uniform between all originators with out bias, and they must be easily interpreted by the consumer.

As a father, a husband, and a small business owner, I Thank the Board of Governors of the Federal Reserve for considering the comments.

Sincerely,

Mike Hoffstein