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Subject: Regulation Z

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Board of Governors of the Federal Reserve System
Ben S. Bernanke
Donald L. Kohn
Kevin M. Warsh
Randall S. Kroszner
Frederic S. Mishkin

Proposed Rule Amending Regulation Z

Gentlemen,

My name is Mary Wetterlin and I am General Manager, 1st Mortgage Division, TopLine Federal Credit Union in Maple Grove, Minnesota. I am also a member of the Minnesota Mortgage Association (MMA). The MMA is the only Mortgage Association in the state of Minnesota, representing Brokers, Bankers, Lenders, and affilliated Organizations.

The Minnesota Mortgage Association is a member-governed organization dedicated to integrity and professionalism in the mortgage industry through education, resources and advocacy.

The MMA's Purpose

- Promote the highest degree of professionalism for those individuals who act as mortgage originators, and to provide ethical and professional standards by which all mortgage originators can be measured.
- Provide an opportunity for the exchange of experiences and opinions regarding mortgage originators and their profession.
- Monitor and disseminate information on legislative and regulatory activity affecting the members and present the position of the association (MMA) where applicable.
- Hold meetings for the improvement and education of the members, as well as encourage networking referrals among its members.
- Cooperate with other related professionals and industries in a common endeavor to promote the profession of mortgage originators and enhance the public perception thereof.

The MMA's business membership for 2008 is slightly under 400. Roughly 1300 licensed mortgage Broker originators operate in the state of Minnesota. The MMA's membership consists of several categories: Professional, (business owners), Affiliate (related businesses and suppliers), Individual (single originators who may work for a Broker or a bank), and Non-Profit (organizations that work closely in the mortgage or

housing arena).
The MMA supports the goal of the Federal Reserve in it's efforts to clarify disclosure and set up a fair, uncomplicated system for consumers to shop, understand, and complete a fair and equitable mortgage transaction. We do not, however, support the curtailment or elimination of premium compensation based on the terms and structure of the mortgage, which is proposed in the current rule amending Regulation Z.

Mortgage Brokers currently disclose (YSP/SRP) compensation on the Good Faith Estimate (GFE) at the time of origination and again at the closing on the HUD-1 settlement statement. Bankers (or anyone using their own funds to close and fund a mortgage transaction) are not required to disclose their compensation on the back side of the loan in any way; although we all know that these instruments have a value to the Lender when they are sold.

Yield Spread Premium is Critical

Yield Spead Premium is a critical element in structuring loans, as well as profitablity for Brokers, Bankers and in fact the entire industry. YSP is an unknown factor until the point of product selection, (Fixed, ARM, Balloon ect..) and the borrower(s) choose to lock in the interest rate.

Yield Spread Premium (YSP) is a fee paid to mortgage Brokers by a mortgage Lender, based on several lending factors as they relate to the value of the mortgage note (instrument). YSP is a significant and important factor in lending. YSP provides profit; coverage for FNMA/FHLMC and Lender delivery fees, as well as loan "structure" opportunities for both borrower(s) and Broker(s). An example of this would be a "no closing cost" loan. Following are some examples and uses of YSP:

Mortgage Broker Profit

The mortgage industry has many issues to address within the origination process. These include but are not limited to: data encryption, data security, and data privacy with regard to personal data, as well as compliance with a myriad of state, federal, and in some cases local laws. Additionally, there are costs such as licensing, bonding, net worth, employee benefits, taxes and the list goes on. YSP is a critical factor in the bottom line for participating originators, just as SRP (service release premium) or GOS (gain on sale) are to the banking community when they are originating loans to the public. I estimate that the removal of YSP from the Broker channel would reduce operating revenue to mortgage Brokers by approximately 40-50%.

Delivery Fees/LLPAs to FNMA/FHLMC

Because the financial profile of borrowers varies widely, every mortgage is unique and has its own parameters. When borrowers want to get cash out on a refinance, purchase a new home with 100% LTV financing (zero down payment/equity), or purchase an investment property, FNMA and FHLMC have set pricing to try to compensate for the "risk" of that particular type of transaction. The fee for this compensation is called a "delivery fee". These delivery fees are charged by FNMA/FHLMC as loan level price adjustments (LLPAs). They are based on the LTV of the transaction, the type of transaction and the representative credit score of the borrower. These determining factors are ultimately not known until the borrower has made loan application, credit has been analyzed and an appraisal of the property has been done. These become a cost to the borrower in discount points unless they can be covered with YSP.

Following, please find an example of YSP used to offset the delivery fee for a zero-down loan:

A mortgage Broker offers a 30 year fixed FNMA loan at a rate of 5.75% that pays the Broker a profit of .655% YSP (this is .655% of the loan amount). But, this particular borrower wants to do a zero down payment 100% LTV (loan to value) loan. FNMA has a “product” for this type of situation called “My Community”. The My Community 100% LTV loan carries a 2.000% FNMA “delivery fee”. This would “wipe out” the Broker’s profit margin on this loan “and” still leave 1.345% fee unaccounted for, or to be passed on to the borrower(s). The Broker will normally look up the rate sheet to a higher interest rate that pays a larger YSP. In this example an interest rate of 6.375% pays 2.750%, minus the 2.000% delivery fee for the product. This leaves .750% YSP as a profit to the Broker, and saves the borrower(s) from having to shell out an additional 1.345% fee to close this transaction. On a $200,000.00 purchase price, 1.345% is $2,690.00. This is designed for borrowers looking to get into a home but they just don’t have the cash to put down, however, they do qualify (from an income perspective) to afford the monthly mortgage payment.

Loan Structure Options

Another way YSP can be used provides more options for borrowers in deciding how to structure their loan. A loan originator can use the YSP to offset loan delivery fees (as mentioned above) or pay closing costs thus making the new mortgage more affordable for the borrower.

It is also our opinion that while consumers have a wide variety of choices in both product as well as origination sources (Brokers, Bankers, Lending Institutions, Credit Unions, even Wall Street Firms), originatiors are treated differently based on the differences in “funding” loans, not the “origination” function of loans. Origination is what the consumer sees, is involved in, and many times confused by. Consumers are not able to understand why some originators (Brokers) disclose YSP and other channels do not. In fact, many seek to confuse this issue by simply saying that Brokers are a rip off and YSP is an illegal kickback. Why are the Brokers being singled out so as not to benefit from the (YSP) value created when they originate loans? Not letting the Broker community participate in this revenue is detrimental to their small business, and sets up an unfair and uneven playing field on Main Street America. Why not have all originators disclose the profit on the “backside” of the tranaction, whether it is actual or estimated, at time of origination? Mortgage Brokers have originated an estimated 60% of the loans in America today, and they have attained that market share honestly and fairly, by being the overall low cost channel of distribution throughout the industry.

Disclosure, while it is a cornerstone of fair dealing and best business practices, and we agree on the benefits to the consumer of early disclosure, it is imperative that we as Brokers and Lenders have all the data required to make an accurate disclosure to the borrower(s). It is unreasonable to expect an accurate disclosure of fees prior to knowing the loan amount and product or Lender, as these vary by institution and we as Brokers work with several institutions, not just one. In Minnesota, we have a “mortgage registration tax” that is calculated based on the loan amount. The origination fee, discount points (LLPAs) and title insurance are also calculated based on the loan amount applicable to the transaction. Mortgage Lenders and Brokers must know the loan amount and terms of the loan in order to make a fair and accurate fee disclosure. We must communicate and consult with the borrower(s) to discover exactly what they seek to acomplish with their transaction. Repeated and changing diclosures throughout the process can only lead to furthur confusion in an already complicated and paper intensive transaction.

Lastly, I wish to suggest to the Federal Resrve that it consider an “all originator” approach to any and all regulation of our industry. If a depository bank wants to sell insurance or securities, does that institution need the appropriate licensing and training and education for its employees to participate in that business? The mortgage transaction is an area of expertise, and proper consultation to discover a best choice for the consumer is critical. Why sell this idea short and only ask Brokers to act in a professional manner? As we have seen, and likely will continue to see, by our current mortgage lending issues and problems, everyone involved, from Wall Street to Main Street needs to be better educated and deal with more transparency for the benefit of all concerned.

Mortgage Brokers currently abide by a myriad of state and federal laws with regard to disclosure, cost and fee limitations, fair lending, and best business practices. We at the MMA, as well as NAMB, also adhere to a strict code of ethics for our membership. In Minnesota, Mortgage Brokers have an agency relationship with borrowers and a fee cap of total compensation that may not exceed 5.0% of the loan amount.

Please feel free to contact me or the MMA office directly with any questions or concerns that you may have.

Thank you for considering my comments on this very critical issue.

Sincerely,

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