From: "Tom Borcich" <tborcich@msn.com> on 04/08/2008 04:15:10 PM

Subject: Regulation Z

E-mail Subject Line: Docket No. R-1305

To: The Federal Reserve Board
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From: Thomas Borcich
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Dear Federal Reserve Board,

I am a mortgage broker working honestly for 23 years. We are a small shop with a high of 5 originators. We work in one of the highest cost areas of the country. We have satisfied clients that go back 15+ years still coming back to us because they trust our expertise, loyalty to their needs and fair pricing. I believe in certain areas, the Federal Reserve Board is doing the right thing by trying to put limits on current and future mortgage regulations in the interest of consumer protection. However I believe that the proposed changes to Regulation Z will harm both borrowers and mortgage brokers substantially.

I would like to first address the triggers. Please raise the proposed triggers of 3% for first trust deeds and 5% second trust deeds. These new triggers capture far too many "A" paper loans. These triggers should be at least 4% for firsts and 7% for seconds. The proposed triggers are going to eliminate stated income and no doc loans that are legitimate paying loans due to income guideline restrictions that underwriters can't or won't use, that exists in households from side work, from tips, from room rent, from other family member that contribute to household expenses or from self employed individuals that have fluctuating income. I would rather see credit scores and payment history considered when determining weather a borrower can use loan parameters such as stated or no doc loans. There are far too many borrowers in sub-prime, jumbo and A paper loans currently, that will not be able to refinance or purchase if the proposed regulation is implemented.

I believe that forcing only mortgage brokers to have binding up front disclosures will only force brokers to become net branches of direct lenders and allow direct lenders to continue receiving gain on sale, service release and other back end premiums. In addition, CONSUMERS WILL BE FURTHER CONFUSED. Disclosures should be identical across all origination channels so that the consumer can look at three or four specific issues: (1) terms of the loan, (2) Monthly payments and if they adjust, (3) Interest Rate and if it adjusts and (4) Total costs to close the loan that the consumer pays. A disclosure showing YSP, Gain on Sale or service release premiums is irrelevant unless there are more negative terms or higher interest rates. HR 3915 stops originators from adding terms that negatively effect the consumer and only benefit the originator. In addition, the direct lenders want you to believe that they have NO CLUE about post close compensation (therefore they should be exempt form such disclosure), but if that is the case how is it that they can price a loan in the wholesale channel to mortgage brokers and still make a profit if they have no clue? Truth is, they know exactly what they are going to make, they just don't want to tell the consumer what they make. We in California have been disclosing YSP for over 15 years and have no problem with that, but it should be the same for all originators so that the consumer doesn't get confused.

The mandate that the initial disclosure on compensation fees (origination fees, processing and underwriting) cannot change is a very difficult and sometimes impossible challenge that will hurt the consumer as well as the mortgage broker. We currently have files in our pipeline that we've been working on for over 6 months. Some of these clients have credit challenges that we are trying to help them clean up. Others have their properties in Trusts, or have their children involved financially or are simply self employed and can't verify their income. We try and get the consumer the best loan that they qualify for and sometimes have to make 5-10 submissions prior to getting an approval. In December of 07 we had a 23 year Fire Captain, 781 credit score, $100,000+ in the bank after close, 20% down payment purchase….it took 17 lenders to get that file approved. When a file takes substantially more time, not allowing an originator to adjust their compensation is unfair and will only force the originator to turn away business. That's like not offering an employee overtime pay. Also, the mandate that compensation is not related to the loan amount in a percentage basis is unfair. If a loan changes from a conforming loan to a jumbo loan and there is substantial additional work required to resubmit a loan and restructure the transaction, the compensation should adjusted?

I like to give some examples of some borrowers who would be lock out of financing. One of our borrowers who refinance out of adjustable rate into a new loan that would fall into the covered loan status with a 3% trigger is on permanent disability. She gets $1900 per month in Social Security and gets $4000 from her father monthly to pay bills, she would not qualify for a loan under the new guidelines and has a credit score in excess of 700 and only owed $200,000 on a $500,000 property. I have another borrower who was a hospice nurse on irregular temporary assignments depending on how long her patient survives. We refinanced her out of an adjustable sub prime loan into a loan that allows her flexible payments due to deferred interest/negative amortization. That new loan would land above the new 3% trigger and therefore won't allow us to state her income, nor give her a negative amortization loan. We refinanced her out of a 9.5% sub prime loan that was on its second adjustment and was scheduled to move to 11.00%. In addition, we saved her at least two and a half percentage points and put her into a loan that allowed flexibility in her monthly payment structure and dropped her rate. She is a person that would be locked out of refinancing under the new rule.

The new required disclosure of: "a lender payment to a mortgage broker can influence which loan products and terms the broker offers you, which may not be in your best interest or may be less favorable than you otherwise could obtain" seems unfair to just force brokers to use. Lenders have the same pricing abilities and can harm borrowers in the same way. In California we are Fiduciaries under California law which eliminates that problem because we, under our license are supposed to act in our customer's best interest.

I sincerely hope that you take some of my suggestions to heart. I have served my clients well in past and believe that some of the excesses that created the current housing crisis have been or will be corrected by industry. The more regulation created the fewer participants in the market to serve clients.

Sincerely,

Thomas Borcich