

From: "Ron Timms" <stimms@seidata.com> on 04/08/2008 12:50:04 PM

Subject: Regulation Z

RE: Proposed Rules to Amend Reg Z
Docket No R1305

Gentlemen:

For background I own a small mortgage brokerage company in Indiana

With the turmoil in the housing market, the Washington outlash is to find fault with some party. This time it appears to be the Mortgage Brokers. While there are always less than scrupulous people in ALL professions, the "corrective approach" has generally been to white wash everyone in the profession as being evil and in need of new controls.

Licensing, regulations and such have always served as a barrier to entry in any profession. A recent op ed piece (march 24th) in the Wall Street Journal pointed out that the state with the most stringent licensing requirements had the highest number of sub prime loans and foreclosures. Is this the goal to be achieved by new regulatory requirements??

I had worked for a banking trade group when Reg Z was first devised and regulations promulgated. It was very complex then; it has gotten worse. The intent was to provided a "shopping" tool for prospective home buyers/borrowers. It never worked. When the APR can adjust .005% just depending on the day on the month a loan closed; you lost just about everyone with the value of this regulation.

Now there is another proposal on the table to again create more complexity in the system.

Lets discuss professionalism for a moment. As mentioned, I am a licensed loan broker in Indiana. In spite of 25 years experience in the business and working for a "regulated lender" for a dozen years or so, I had to take the required licensing class and have to take a continuing ed class every year to be a "Loan Broker" in Indiana

Some one working for a regulated lender is exempt from the from this licensing requirement. Not only does this law have a class room training requirement, it places restrictions of how a mortgage broker can operate. A regulated lender and other specified types of business are exempt from this law. They can totally ignore it and its provisions. Some of these other entities, such as Freddie and Fannie seller/services, in many cases just requires certain cash reserve to buy in, These "exempt entities" can hire anyone they want to be their loan representatives and they can charge applications fees, etc., to get paid for their up front time. A banker can go to his front door grab the first person he sees and can make that person his loan officer. The so called regulated lenders are exempt from local state licensing laws. And, I fully understand the concept of Federal preemption.

As a broker, in Indiana, I can not charge any kind of application fee and I do not get paid any "loan fees" until and unless a loan closes. I have to have the client sign a non binding, non exclusive broker agreement stating that I can only charge the client for an appraisal, credit report and title work if and only if these services are ordered and I can only charge for actual costs, not for any of my time expended in ordering these services or reviewing the work product when completed. Many times these costs are out of pocket until closing, if there is one. I have to deliver to make any money and I have to be complete with these other entities that can charge for up front services and are not bound by the licensing law.

It had been suggested that loan brokers follow the system built by Real Estate Agents and Brokers, but

heck, even real estate brokers have an exclusive contract agreement when they sign up a client..

As a broker, I do not make the decision to approved a loan for closing. I submit a package of information that is review by a number of people at the "funding source" and they asked for additional items if needed, reject the transaction completely or approve it, on their terms for closing. Even what I do charge the client is subject to their review AND approval.

As you know interest rates change daily if not more frequently at times. The new proposal wants a broker to price his services up front when neither he nor the client knows what will can happen between the broker agreement is signed and a loan closing. If rates are lock in early and rates drop, the client walks. Sometimes a rate lock involves a fee if the loan does not close or if the lock period is extended. This requirement will eventually lead to brokers putting in higher YSPs than what he would actually charge just to protect the broker from uncertainty in the market place. Again prospective borrowers will be getting inaccurate information. Any rule changes must permit the small independent broker to survive as well as the largest of the large banks. The current rule structure permits some lenders to promote products that do not fully disclose the particulars of a loan program.

Do disclosures need to be improved for borrowers? Yes certainly. But these changes need to be meaningful. The changes suggested by the Certified Mortgage Institute are probably much more informative than the old Reg Z and the associated APR calculations.

On the other hand no rule change should be a marketing membership driving device for anybody to have to be "credentialized" by any particular organization.

Also there needs to be some directive focused on the consumer. If you borrow money it is the responsibility of the borrower to know the terms. If the loan payment is more than their person's monthly income, as such cases have been reported on TV and in the papers, then the borrower has to know this is not the deal for him. Perhaps a good rule change would be to require all loans to be closed at an independent title agency. At my closings, the title agent goes through the HUD form line by line so the borrower knows what each cost and charge is, including payments. This eliminates a lot of mystery and the borrower knows exactly what is going on. Perhaps all loans should have a preclosing meeting with the title company, the lender/broker, real estate agent, etc prior to disbursement of funds. This will eliminate many of the problems everyone hears about unscrupulous charges and bait and switch activities.

Also, one needs to keep in mind about he activities of the borrower. Most loans are approved so that the borrower can afford the new payments. But has anyone looked to see what some borrowers have done after closing?? Many bought new furniture, new cars, new TVs, new electronic, etc. None of this is factored into the original loan approval process. Borrowers who do this find themselves in payment shock and in trouble. All of this is the borrower's fault. None of it is attributable to the loan broker or any loan disclosures.

For the most part I believe the current structure in the mortgage lending business has worked well in the recent past. With some of the loan products available, many people have been able to purchase homes; whereas without them there was no chance. Many people acted responsibly and achieved a dream. Others have not and made bad decisions. The market has to work through these times. A political/regulatory fix may sound good. It will probably will help some people (who made bad decisions), but at a cost to others would lived by their decisions. Who deserves a bailout?? There is a good chance that some of these rule and policy changes will set back the housing market for a long time and many people wanting to become homes owners may never get the chance.

Thank you for you time

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