From: "Ryan Naab" <ryan@crosstownlending.com> on 03/26/2008 02:55:03 PM

Subject: Regulation Z

Board of Governors of the Federal Reserve System
Proposed Rule Amending Regulation Z

1. Proposed Fed Rule Impedes Brokers' Ability to Compete and Hurts Consumers

The Board of Governors of the Federal Reserve System recently proposed amending Regulation Z, which implements the Truth in Lending Act and the Home Ownership and Equity Protection Act.

The proposed Fed Rule would put in place some useful consumer protections, but it also would impose significant burdens on mortgage brokers. In particular, the proposed Fed rule would require brokers, but not other mortgage originators, to disclose the specific dollar amount which the broker would earn from a transaction, including yield spread premiums. That disclosure would have to be made *before* the consumer paid any fee to any person, *and* before submitting an application. Brokers may only receive compensation disclosed in that manner. If there is no such disclosure, the mortgage brokers cannot be paid by any amount by any party, lender or borrower.

HUD already requires disclosure of yield spread premiums in both the GFE and HUD-1. 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 do not view other originators in the same way. The Fed has taken this position even though 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.

2. *Opportunity for Public to Comment on Proposed Fed Rule*

The Fed, like other federal agencies, is required to solicit comments from the public on any proposed regulation. The Fed must consider those comments before issuing a final rule. Comments must be submitted by April 8th. Comments may be submitted at regs.comment@federalreserve.gov, and should identify "Docket No. R-1305" in the subject line of the message.

The National Association of Mortgage Brokers will file comments on the proposed Fed rule. Those comments will be very detailed, and include lengthy analyses of such matters as research methodology and rulemaking procedural requirements. However, it would be quite helpful for others to submit comments as well, particularly if those comments were from key state leaders within the mortgage broker community highlighting real-life practical considerations about how mortgage markets work and how brokers conducted their business. Attached are some points which it would be useful to make in such letters.

Suggested Points to be Made in Comments Submitted on
Proposed Rule Amending Regulation Z (Truth in Lending and HOEPA)

WHAT: The Federal Reserve has proposed a new rule which would implement several measures designed to protect consumers. Among other provisions, the proposed rule would prohibit mortgage brokers from receiving any compensation unless the specific dollar amount of the total compensation the broker would receive from both the borrower or the lender, including yield spread premiums, was agreed upon with the borrower *before* an application was submitted. This requirement would be in addition to the disclosures regarding broker compensation required by current law to be included in the GFE and HUD-1. The Fed is required to solicit comments on the proposal from the public. Brokers are encouraged to submit comments on the proposed Fed rule.

HOW: Comments may be emailed to the Board of Governors of the Federal Reserve System at regs.comment@federalreserve.gov, and should identify "Docket No. R-1305" in the subject line of the message.

WHEN: Comments must be submitted by APRIL 8, 2008.

SUGGESTED POINTS FOR LETTER:

[Theme: Highlight Real Life Experiences and State and Local Considerations]

- Identify State
- Specify how many mortgage brokers are active in the State
- Describe how mortgage brokers are regulated and licensed in the State
- Express 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
- Note that mortgage broker compensation, including yield spread premiums, already are disclosed on both the GFE and HUD-1, even though there is no corresponding requirement for lenders to disclose compensation paid to their own sales staff
- Explain the services that mortgage brokers provide as an intermediary between borrowers and lenders, and the value the broker adds in the real estate transaction by serving BOTH

parties, but representing NEITHER.

- Indicate a willingness to make disclosures encouraging prospective borrowers to comparison shop and explaining that ALL loan originators do not represent borrowers and do not necessarily offer borrowers the most favorable terms

- Explain how mortgage brokers must compete with direct lenders, and how the distinctions between brokers and lenders have blurred in recent years as lenders themselves typically package and resell loans they originate

- Note how consumers are largely unable to distinguish between brokers and lenders, which have similar names, use similar signage, and rely on similar advertising

- Note that consumers should not need to distinguish among mortgage originators: both government policies and the marketplace should be set up to permit consumers to get the best deal at the best price, regardless of whether they use a broker or deal directly with a lender

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

- Explain how yield spread premiums are much more than just compensation, and how they are used to pay certain costs and facilitate the loan transaction

- Explain that fees similar to the YSP are present in any mortgage origination distribution channel, regardless of whether a broker is involved

- Explain how, 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

- Explain how requiring brokers, but not other loan originators, to make compensation disclosures will inhibit competition, which will limit consumer choice, increase prices, and hurt borrowers

- Explain how it is impossible to give a reasonably precise dollar estimate of fees a broker 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

- 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

- Thank the Board of Governors of the Federal Reserve for considering the comments

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"An Investment In knowledge always pays the best interest" ~ Benjamin Franklin

http://www.mortgage-x.com/x/ratesweekly.asp

http://www.freddiemac.com/dlink/html/PMMS/display/PMMSOutputYr.jsp?year=2008