First Name: Michael
Last Name: Cauley
E-Mail:
Telephone:
Profession:
Organization:
StreetAddress1: 532 Overbrook Road
StreetAddress2:
City: Bloomfield Hills
State: MI
Country:
Postal Code: 48302

Comments:

Dear Mr. Bernanke:

Re: Proposed Amendments to Regulation Z (Truth in Lending)

On December 12, 2007, I read Governor Kroszner's memo to Board of Governors and his comment that holds a particular misrepresentation of facts on pages 28 and 29, as well in the Summary of Proposed Resolutions on pages 29, 30 and 31.

Unfortunately, your representative of Committee on Consumer and Community Affairs has not performed well in explaining all the relevant facts because of a lack of understanding of interest rates and closing cost when a consumer compares financing options. I am disappointed because it makes no reference to the only Federal agency that has completed a thorough study of this issue. The FTC prepared a report and shared with the HUD on October 28, 2002, warning of the problems of HUD's YSP disclosure. The report begins on page 4 the discussion of Yield Spread Premium (YSP). The most notable point is that Mortgage Broker companies are required by HUD to disclose YSP on Good Faith Estimate (GFE) and Settlement Statements. This stems from a November 2, 1992 rule making by HUD which added the YSP to GFE in the form of Paid Outside of Closing (POC) for loans originated by Mortgage Broker companies only, no other companies originating loans. Mortgage Banker, Credit Unions and Bank companies are not required to disclose YSP, even when offering the exact same interest rate and closing cost.

This rule change led to a firestorm of lawsuits and confusion for consumers. Disturbing was HUD's issuance, in their November 12, 1992 Final Rule, of Findings and Certifications that this change (of all them issued with this Final Rule) would not have a significant impact pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act). In addition to the many attorneys, courts, businesses and consumers being heavily impacted by this

Rule change, HUD on several occasions after this Rule change had to expend government resources on clarifying this bad policy. This manipulation of facts to achieve a desired result needs to be understood with HUD's most recent attempt to justify continuing to disclose YSP. You need to see their March 14, 2008 proposed Rule to clarify (yet again after almost 16 years of this politically focused Rule not consumer focused) Real Estate Settlement and Procedure Act (RESPA). It continues to perpetrate bad policy upon consumers and businesses.

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HUD's creation of YSP disclosure was hidden in the disconnected flow of thought on several changes being made with no substantiation for its purpose on YSP disclosure. My observation, it was a political favor to Banks, Mortgage Bankers and Credit Unions in their attempt to eliminate originations by Mortgage Brokers by confusing consumers shopping for a loan. Just look at the manipulation of a secondary market transaction terminology used as a false premise of YSP classification. YSP is the exact same thing as Service Release Premium (SRP). It is only called a YSP when originated through a Mortgage Broker company versus Bank, Mortgage Banker and/or Credit Union. The terminology (YSP) was created by HUD. Also of importance in light of putting Mortgage Broker companies at competitive disadvantage to exempted origination companies, is attempting to add YSP into HOEPA formulas; when in fact it is not a cost of money charged to consumer. If it was, then SRP would need to be included in formula. Again, interest rate and net closing cost are charges to consumer; not YSP and SRP.

The FTC once again had to prepare another report in February 2004, "The Effect of Mortgage Broker Compensation Disclosure on Consumers and Competition." This controlled experiment in fact, showed the consumers being confused and competition being reduced the result of YSP disclosure. It does not take rocket science to understand. A consumer shopping for a mortgage needs to know what their interest rate and net closing cost are; regardless of who is originating the loan. Adding YSP to GFE numbers gives no useful knowledge for consumer. When a consumer shops for a loan, they need look to interest rate and net closing cost. How the interest rate and net closing cost are arrived at is not relevant as per the 2002 FTC report. The report explains YSP is not in fact a mark up to market interest rate. How can it be when each investor has their own way to determine market interest rates, both at the wholesale and retail levels? If you where to take the rate sheet of 4 different wholesale investor, each would have a different YSP for the same interest rate, just as retail investors would.

Thus, YSP disclosure has no benefit to consumer.

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If you were to read HUD's most recent attempt to disregard all warnings of the FTC, they continue to push the distractive YSP disclosure and continuing to compound bad policy and needlessly pushing more wording in disclosures trying to justify YSP disclosure. For consumer, the idea of originating source is irrelevant when shopping for interest rate and closing cost combinations. The consumer will either shop many sources as they would all their consumer purchases or they will shop from only one source. The consumer is well aware there are many origination sources for mortgage loans; we live in the information age, all they need to do is listen to radio, open newspapers or enter the internet. The knowledge of consumer is always dependant upon not the disclosure, rather it is dependant upon the consumer reading, asking questions and the explanations they receive regarding the disclosures. The government adding more documentation, particularly compounding bad disclosures of YSP to begin with; only turns the consumers' attention to becoming more confused because their comprehension level is overwhelmed or completely ignoring the excessive documentation and relying upon someone to explain it to them.

Make it simple, disclose interest rate, net closing cost (all which align with numbers on HUD settlement statement) and the separate disclosure of terms of loan (i.e, can interest rate and payments change, when, how much and what are the factors will determine these changes). It is up to the consumer to do their own shopping. Unless we are choosing to go the route of a communist country, we rely upon our citizens to make their own choices and the learning experiences that come as result of that freedom. Bottom line, if consumer is unable to distinguish a 6.25% from 6.5% both with net closing cost of the same product; there is nothing in a Federal agency disclosure that is going to benefit them.

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To resolve the problem, I would appreciate your Federal Reserve System eliminating the YSP disclosure for the reasons identified by the FTC. Do not include YSP in any calculations. It is a fraud upon consumers to introduce YSP and not SRP. It was wrong of HUD to create the YSP disclosure back in 1992; again consumer needs to shop interest rate and net closing cost (as well as multitude of other disclosures required under various Federal laws regarding terms of loan; i.e., Fixed, Adjustable, Buy-down etc… as well as servicing requirements and State specific disclosure requirements). The consumer does not lack disclosures. There are enough laws and regulations already covering these disclosures; it is an ethical issue of originating company to issue, explain and answer all questions the consumer has, the result of reading the disclosures. It is a consumer responsibility to ask questions they have regarding the information included in the multitude of disclosures. Yes, not every consumer is going to ask all the potential questions that could be asked. No the government regulators can not force people to speak their minds or control what thoughts occur in their minds. If it was; the Federal regulators would require all consumers, before being able to enter into a loan, to call the regulators to make sure the consumer has asked all the questions the regulators want them to ask. Enclosed are copies of my records for HUD November 2, 1992 Final Rule, 2002 FTC comments on HUD disclosures, FTC 2004 The Effect of Mortgage Broker Compensation Disclosure on Consumers and Competition controlled experiment and April 16, 2008 FTC comments to Board of Governors of the Federal Reserve System Regarding Proposed Rule to Restrict Certain Mortgage Practices Under TILA.
The consumer, regardless of originating source should shop for a mortgage loan based upon interest rate and net closing cost; not based upon the bias of YSP. If originator's revenue (outside the interest rate and net closing cost) was an issue for consumer and not a political issue, than why would the Federal Reserve not make all originators follow the same process of disclosing YSP/SRP? YSP/SRP disclosure has no benefit to consumer. A consumer needs to focus on interest rate and net closing cost, regardless

of the origination source and accounting method of originator. It is not YSP that determines interest rates; if it was, how do Banks, Mortgage Bankers and Credit Unions set interest rates when there is no YSP? The YSP issue which began in 1992, has mushroomed into more bad policy for consumer being written and rewritten attempting to spin a useless disclosure. Eliminate the distraction of YSP, and educate the consumer to shop interest rate (not YSP) and net closing cost (not YSP)—not misleading accounting methods for YSP/SRP created by HUD back in 1992.

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There is no consumer protection by classifying YSP payments, since the interest rate the consumer shops is already disclosed to consumer in various forms of GFE (interest rate and net closing cost) and TIL (the formulated combination of interest rate and net closing cost).
I look forward to your reply and a resolution to my problem and will wait until May 1, 2008 before seeking help from a consumer protection agency or Better Business Bureau and/or Media. Please contact me at the above address or by phone at 248.225.4590.

As you will note, I have used the form your organization is advising consumers to use to get communication from the organization the consumer has a complaint for. I will be curious to see how effective it is with the regulator that created it on Friday, December 28, 2007.

Sincerely,

Michael Cauley

Enclosure(s)