From: "Danny Bernhardt" <dbernhardt@q.com> on 04/08/2008 12:15:02 AM

Subject: Regulation Z

Dear Federal Reserve Board,
RE: Docket No. R-1305"
I am a Mortgage Broker, Insurance Agent, and Financial Planner here in the great state of Utah. It is clear that the media and some consumer action groups pointed the finger at mortgage brokers for too many of the issues that our industry faces. It is true that some reform is necessary because of the actions of a very small group of Loan Officers (LO). I have had several instances where disclosing the YSP on my good faith estimates has proven to scare away my borrowers to a point that they will take a higher interest rate or higher fees "Out of their Pocket" from a Bank just because they have been are scared into believing they were paying too much. Or they were confused about what Yield Spread Premiums are. My experience has been backed up by the study done by the Federal Trade commission. They link below is the study.
http://www.ftc.gov/opa/2004/02/mortgagerpt.shtm .

Utah Broker & Loan Officer Regulation

In Utah we have over 8,000 mortgage brokers. To receive a license all LO's have to be fingerprinted, have a FBI background check completed, and attend schooling to be licensed plus get 14 hours (soon to be increased to 90 hours) and 14 hours of continuing education per year. With all these things in place we have done very well to regulate and keep our loan officers doing the best they can for borrowers. With any industry you have a few "bad actors". We need to be responsible in making sure that we don't let the actions of a few place hardships and cause harm to the consumer. With the way this proposal is currently written the consumer will not receive an increase of protection, service, or better pricing.

Loan Product Options & Training

When a consumer goes to a Bank for a loan the only loans that are offered are the loan products represented by that Bank. With the diversity of loan product and the vast needs of consumers, borrowers need to be shown several loan options. I have invested over $10,000 in a "pricing engine and product finder" that searches through more than 10,000 different loan options for the consumer. This is a product that Banks do not typically invest in for the benefit of the borrower. This product is the only way I can provide a TRUE evaluation of loan options for the consumer. I can find the loan that fits the needs and the Lender that is offering the very best rate. When you have broker relationships with nearly 300 Lenders as I do, I can offer a loan solution that a Bank simply can't and won't offer. Removing this competitive element will clearly hurt the borrower.

I have several situations where a borrower will explain that they have visited with the Bank or "Lender" and have received a loan quote. I will take the same borrower through the Bank or Lender wholesale channel that I have with that Lender and offer a lower cost loan (interest rate) using the same Bank. I have had this experience with Countrywide, Zion's Bank, Wells Fargo, Bank of America, Key Bank, Wacovia and several others.

Because the employees working at these "retail" Lenders don't have to licensed by the state, there is NO education or training requirement at the State or Federal level. I have done personal research in asking about the credentials of some of these Bank Loan Officers, only to find out that they have received no training at all.

To receive a license to cut and color hair in the state of Utah as a cosmetologist, 2,000 hours of certified training is required. A hair cut cost the consumer $10 to $100. A mortgage cost a consumer several hundred even thousand each month. A mortgage is the largest single expense a person or family will make their entire lives. Which transaction, if improperly conducted would impact the consumer more? Giving the consumer vast options and available expertise is vital to maintain the best protection to the consumer. This is why Brokers exist and why consumers have made the choice to have Brokers originate over 60% of home loans in America.

YSP compensation and SRP

By providing YSP from Lenders to Brokers the YSP encourages the Broker an incentive to find the very best rate for a loan. With the reward of an YSP commission insures a competitive market place for both Lender and Broker to maintain in order for the consumer to choose the loan provided by a LO regardless of Bank/Lender or Broker. If the YSP is removed the Broker has no incentive to search for the best rate for the consumer. There have been studies conducted showing the reasons and benefits to Lenders to have Broker "Wholesale" relationship. The studies show clearly that it is less expensive for a Lender to have a "wholesale representation" loan provided by Brokers than to have a "retail" (direct to the consumer – like a Bank) outlet.

Banks make Service Release Premium (SRP) on every loan, but they do not have to disclose it. This does not provide an even playing field for the consumer in our industry. A consumer should be given the opportunity to take a loan option (GFE) from a Bank and a GFE from a Broker and be able to clearly see the costs and expenses from both. This is the ONLY way to best serve the consumer. If full disclosure of ALL fee's and commission (YSP & SRP) best serve the consumer, then it is imperative that both Lender Banks and Brokers follow the same rules because BOTH serve the same consumer. This is the ONLY way a consumer can compare "apples to apples". It does not make sense that all home loan originations are not treated exactly the same regardless of who originates them, Broker or Bank.

I support consumer protection measures; it is clear that this proposal is over regulating and does not serve the best interests of the consumer. Without Brokers receiving YSP and disclosure requirement being the same, Brokers will all but cease to exist, because all incentives have been removed for the LO and Broker. When this happens, loan options to the consumer will dramatically be reduced and limited, loan products will be represented by unlicensed and largely untrained Bank employees and studies show that interest rates that the consumer will pay will go up by .375% to .625%. (Based on comparisons of loans week of 4-1-08) With a loan balance of $208,000 the additional increase would cost the consumer $31,000 MORE in interest over 30 years.

Equal Disclosure on GFE

All broker compensation is in plain site on the Good Faith Estimate and on their HUD-1, even though Lenders and Banks can make as much SRP as they want and no-one but the Banks or Lender knows what that amount is. We help the borrower and the Lender and serve both but represent solely neither. This provides a tremendous benefit to the borrowers. Most Lenders do not keep their loans. Most are sold within 90 days of funding. In this manner Banks and Lenders are similar in that the Bank/Lender is also a Broker of loans that are later sold off. Both government policies and the marketplace should be set up to provide consumers to get the best deal at the best rate, regardless of whether they use a Broker or deal directly with a Lender.

ALL DISCLOSURES SHOULD APPLY EQUALLY TO ALL LOAN ORIGINATORS. THIS IS THE ONLY TRUE WAY FOR A BORROWER TO GET A TRUE LOAN COMPARISIN WHEN RATE SHOPPING. In the real world, of originating mortgages requiring Brokers, but not other loan originators, to make compensation disclosures enable the Banks and Lenders to steer consumers away from Brokers, even if the Brokers offer more favorable loans. This has been proven by the FTC over and over again. 1/3rd of borrowers get confused when (equal) full disclosure is not required by every loan originator. Fees similar to the YSP are present in any mortgage origination distribution channel, regardless of whether a Broker is involved. Research any Bank/Lender that sells loans and you will find they make Service Release Premium (SRP) and that amount is on average higher than that of the average Brokers Yield Spread Premium (YSP).

Requiring brokers, but not other loan originators, to make compensation disclosures will inhibit competition, which will limit consumer choice, increase rates, and hurt borrowers in ways that cannot be foretold until this mistake is made. I truly believe that rates will be higher on average or fees will increase a minimum 50%.

A critical flaw in the proposed disclosures requirement is giving a reasonably precise dollar estimate of fees BEFORE a loan application is completed. This is similar to counting the fruit on the tree before you plant the seed. A Broker is not aware of the financial status, transaction details, type of product sought, or amount of loan, all of which may change as the transaction progresses. It is impossible to reasonably “guess” what these fees will be so far in advance.

I suggest that the Fed consider alternatives to the proposed regulation which would truly protect consumers in their dealings with all mortgage originators, and encourage competition on rate, product and service. Without putting everyone on a level playing field you are not correctly addressing the current issues or helping the borrower.

I would like to thank the Board of Governors of the Federal Reserve for considering my comments.

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