

**From:** "Bob Armbruster" <barmbrus@bellsouth.net> on 04/05/2008 11:10:03 AM

**Subject:** Regulation Z

My name is Bob Armbruster of Lawrenceville, GA, a suburb of Atlanta, and I am replying to the referenced docket. I have been in the business for 40 years, and have operated my company since 1984. During the past 15 years, I have participated in both state and national trade groups, but these comments are personal in nature, and are not associated in any way, with those groups.

You have already seen finger pointing at mortgage brokers as the root of the problem on the street side of the origination model.

I mention "street side" because Wall Street turned the investment segment of the mortgage business into a casino to the point bets could be taken for failure resulting in the decimation of solid business plans. "Short selling models" sprang up and coupled with "if come" situations on newly formed derivatives, were played against each other to enhance bottom lines. These included non-balance sheet items with undefined valuation models and resultant credit issues on top of the declining market valuations in communities across the nation. May I suggest that the loan delivery system itself while needing some tweaking, did not fail as it handled record volumes of originations. The risk management segment coupled with Wall Street shenanigans, did breakdown, and this is where immediate attention for change needs to be directed.

Mortgage brokers through the years, have proven to be one of the nation's most viable channels of distribution. Most are upstanding and honest, operating small businesses, nationally, in many towns and cities, and have been subjected to needed licensing and registration standards by their respective states. As you are aware, mortgage brokers originated most of the residential business over the past fifteen-eighteen years. In doing so, the business model involved their being an intermediary between the consumer and lenders. They did not develop loan programs or establish underwriting standards, and they did not make the credit decisions and fund transactions directly in most cases. Through the years, consumers chose brokers for shopping while many lenders and GSEs recognized the broker channel of the best means to get their products to the street. Numerous studies have validated this point. When Wall Street decided to invest in higher risk mortgages, thus "funding" credit to credit impaired population and the underserved, they again turned to the broker channel through B-C lending institutions. In this process, there were elements of abuse and personal gratification within the channel which were facilitated by introduction of exotic loan programs meant to increase the home ownership population as decreed by the President. .

As part of the initial steps in repairing the system, the Federal Reserve and HUD, or even the White House, should have suspended all non-traditional loan programs and lending. The Fed, OCC, GSEs and others, have basically done this by recently raising standards, but emergency action knowing problems existed, would have gone a long way to begin to address issues on the front end of the mortgage origination process. In doing so, a policy should have been established to define what mortgage programs would be acceptable for the near term. While there may have been some who contest such action, as Regulators, your authority could have been extended to include termination of these programs, at least on a short term basis, as an emergency initiative. As awareness of issues has risen, subprime volumes have dropped dramatically to the point most lenders will not originate these loans. Therefore the need to prioritize implementation of any amendments to TILA and HOEPA laws, now seem to be reduced.

Many consumers shopping for a mortgage do not distinguish between a broker, a broker-lender(one who

does not service but table funds and resells into the secondary market within months), and lender servicer, all of whom originate...thus the change in terminology to loan originator which is correct and should be applied to all origination sources including national and state chartered institutions plus the credit unions, and non-banking entities. Primarily, the consumer wants pricing and cost information when shopping, along with program education, and all of us associated with the industry recognize the value of transparency. Any initial disclosure should be limited to one page, should be designed as a shopping tool, and the loan program acknowledgement on which the application is based, can be signed as part of the application process itself. Provisions can include circumstances necessitating re-disclosure. It is unfair to require action by one segment of the industry and not ALL segments, with regards to providing an initial standardized disclosure(including compensation explanations) before application. Moreover, the lack of consumer understanding of differences causes further confusion as to content and purpose.

One more point regarding consumers; as legislation, policies and other general oversight venues are developed, little attention is given consumer accountability. Where does one draw the line of responsibility and accountability for one's own actions, versus blaming elements of industry or the system? I mention this every time I write a Federal official because it is relevant in determining liability and considering legal remedies available to the consumer.

Now let's look at the broker compensation issue. There is a principal here that seemingly is being violated. Disclosing one's profit, how are they paid, and how much, while parts of any business model, are not generally passed on to a buyer of goods and services. It's a part of our capitalistic and free enterprise system. My daily shopping items contain no disclosure as to who gets what? My purchases of large ticket items contain no breakdown as to who is making what. Yet as of 1992, by Government intervention, mortgage brokers were directed to disclose all direct and indirect income on both Good Faith Estimates and HUD-1 statements, and we have been complying for 15 years. Now under the guise of more transparency and your advisories, only mortgage brokers are being directed again to disclose more details, but before applications are made, while those under your jurisdiction remain exempt. I am aware of the OCC Advisory letter in 2003 instructing banks about third party relationships and broker/borrower agreements. From this writer's viewpoint, I saw little adherence or compliance, excepting for some LOS software changes to the broker agreement, until lender notices began to be circulated to brokers in late January 2008. To make matters worse, each lender has their own forms which makes operations more difficult in a pre-app environment. No other part of the financial services or banking industries are forced to disclose this type of information. It is impossible to cover all considerations necessary in estimating possible transaction costs without gaining access to a prospective borrower's financial status, credit standing, type and amount of loan, transaction details, and other variables which affect the accuracy of an estimate. In addition, there are other governmental agencies suggesting disclosure forms and procedures, and as they are developed, we need one form in one format.

In the rush to the front end of the business, perhaps a solution is to look at the mortgage instrument itself, and making an open-ended mortgage attached permanently to a property, the primary instrument, versus the current closed ended one. With restrictions as to structure and use, refinances, HELOCs, and speculation would dwindle.

In trying to layout parameters for adding simplicity to the mortgage disclosure process, the "level playing field" issue has been discussed in detail. For example, I have heard banking officials say they do not know what a loan will be sold for, and cannot disclose their income. Then why only mortgage brokers? While part of this will be addressed further below, there is a possible solution to this disclosing issue. Every originator should be disclosing the same information in the same format. Lenders distribute pricing information every day. It contains interest rates and adjustments broken down by time period of the loan lock. It is suggested that all initial disclosures be made on a 60 day out price basis from the distributed price sheets. Accordingly loan locks should be made only at application, or 10 days before closing. This should result in estimates being maximized, and necessary redisclosures being lowered.

For your information, several lenders have recently consolidated operation centers and are not currently staffed to handle any increase in workload volumes. Just last week I was notified a major lender was

taking 12-14 days to underwrite a package, 3 days to clear any condition, and 3 days to draw docs for closing which is exclusive of the time necessary locally to prepare the closing package at the attorney's office. There are appraisal changes upcoming which may add to that time and it looks like a home purchase transaction involving financing will be taking 6-8 weeks at best from application to closing. The consumer suffers, both as buyer and seller. You should be aware that the real estate purchase contracts are and have been changed to pass on performance liability to the buyers within stipulated time frames from contract acceptance. Again opportunities are being created for litigation potentials and to add complexity, not simplification, to the home buying process. If a lender cannot complete its processing of an application in a timely fashion so as to deny a purchaser the right to perform on a contract, could a lender be drawn into litigation?

I want to address Yield Spread Premiums(YSP) as a part of the process. My experiences and responsibilities within the industry have allowed me to observe the correct use of YSP in a transaction, and the misuse of it, namely lining the pockets of scrupulous and greedy brokers and lenders. The actions of a few have caused our industry much distress, and as in the cases involving mortgage fraud, there is no tolerance for such actions. There are fees similar to YSP in any mortgage origination channel regardless the type of originator, and any originator should acknowledge and document the basis for applicable fees. Again the disclosure issues are raised and should be the same for all. Consumers shopping for mortgage financing should not need to distinguish among mortgage originators. Under the proposed rule, compensation disclosures enable broker competition to steer consumers away from brokers, even if brokers offer more favorable loans. Therefore competition is inhibited, which limits consumer choice and increases prices. While there may be some additional compensation factors involved, YSP facilitates many transactions and allows closing costs to be financed over the term of the loan. Lenders as a matter of policy, have capped the amount of YSP payable on each transaction, which I initially was against as interference with the free enterprise model. But I have seen evidence of misuse, and capping income, while bad in principle, seems a viable and tolerable alternative solution as we work to remove unwanted players from the industry. Today, as they are identified, they have legal rights until proven guilty, and it takes years to get perpetrators in front of a judge. So the enforcement and judicial systems as related to our industry, are under pressures, and need attention. In short, we seem to be in a completely reactive state within the industry at present, and band-aid legislation and regulations are not the solution.

In summary, the Federal Reserve and its Board of Governors, are to be commended for its efforts to protect the consumer by amending Regulation Z. Given all the other issues on the table today within the financial services, securities, and housing industries, there seems to be higher priorities than implementation of any amendments at this time. Moreover, this writer does not favor broadening Federal Reserve powers. In the case of the proposed amendment, specifically, I respectfully take issue with the direct attempt to regulate mortgage brokers through lenders under your jurisdiction, and in requiring policies and procedures(separate disclosures for brokers, including compensation) which might imply a restraint of trade by application. The ongoing effort is contrary to free enterprise, and this end of the model needs less new Federal intervention and more of those empowered doing a better job. Perhaps the utopia is to update the entire mortgage process with new omnibus legislation, and restructuring of agencies governing and regulating the mortgage industry, or perhaps all regulation and enforcement should be delegated and empowered to the States. By the way, when the second highest priority within the FBI is mortgage fraud, it lends credence to the fact the job is not getting done under the current system.

It's not everyday I get to reply directly to the Federal Reserve and its Board of Governors, and I appreciate the opportunity. I have a passion for this industry, and for doing things right. In my giving back, I wish I could have given more. Thanks again for any consideration given the above remarks, and for your time.