From: "Darin Arrasmith" <darin@westcord.com> on 04/07/2008 05:55:05 PM

Subject: Regulation Z

To Whom It May Concern:

The mortgage crisis has brought about the need for change. There is no way to go back and undo what was done in the past but we can create a solid plan to prevent this mess from happening again. This "perfect storm" was brought on the inevitable end to a robust housing cycle, wall street greed, lender's unrealistic guidelines and loan officers not always selling the right products to consumers. We make none of this better with the new proposed fee disclosures before us.

I am a firm believer in regulation and accountability. Mortgage Brokers have been asked to disclose their profits for many years. The fact that most banks have a "wholesale" division speaks volumes to the viability of a business model that utilizes licensed agents to reach the masses. The contracts between brokers and lenders put in place spell out the terms of those arrangements. The Yield Spread Premium (YSP) represents the bank's compensation to a Broker on a "wholesale" basis. In most cases a reasonable YSP represents fair market pricing for the consumer. The broker effectively obtains pricing on a Wholesale basis and sells it on a Retail basis; the way the most industries work. We are one of the few industries who has to disclose how much money they are making but have managed to make it work thus far.

The language proposed in the new disclosures, literally says that by going through a broker, a consumer is spending more money. This is simply not true. In general wholesale loans are sold to be competitive with the fair market on the street. If a broker is not approved with the best priced lenders, then they lose their competitive advantage. The new disclosure is a hurdle that would require every person working in the brokerage industry to overcome by telling the consumer that what the document says isn't true. In many cases we can offer highly competitive rates and programs to the consumer and be paid by the bank for our services. Retail loans offer discounts for paying points and so do brokers. The consumer has to decided whether or not they should be paying no points, 1 point or more based professional analysis of what the costs represent to them. If the broker chooses to charge points on top of receiving a YSP, it has to be disclosed and the consumer should know (or be given the tools to know) that the rate and program they are receiving is fair market pricing for their income, assets and credit scores.

Most people are not defaulting because of the fact that mortgage brokers made a YSP. The truth of the matter is that lenders and Wall Street offered products to be sold within <u>their</u> guidelines and brokers went out and sold them. Some of them sold these loans and made more than their competition but the banks set the rules for earnings caps and borrower qualification and despite the disclosure laws consumers signed up in droves. If Ford makes a car and sells it through dealers and it is later discovered that the car has problem, do you go back and penalize the dealer for selling it? Do you go back and tell them that if they sell any more cars ever, that they have to tell the consumer that they will pay more for them or that all of the cars will have problems? The Wholesale lending industry did not cause this mess.

The language "You may choose to pay your mortgage broker by paying the lender a higher interest rate. Your lender will then pay your mortgage broker on your behalf in exchange for you paying a higher interest rate on your loan", leaves the consumer with an obvious question about their decision to do business with a broker vs. a retail bank. This language does not answer the question "higher than what?" nor does it speak to the difference between wholesale and retail pricing; <u>It is written by people who obviously believe that we are solving a problem by chasing borrowers away from mortgage brokers; Which ultimately could be proven to be illegal.</u>

The fact is that historically approximately 70% of all loans originated in the country are originated by brokers. Brokers are required to be licensed by every state they do business in. They have to sign contracts that bind them to the lenders terms of doing business and they have to compete against wholesale and retail lenders. They have to be knowledgeable about loan programs from many different companies and have to disclose the terms of those loans in writing to consumers and they have to disclose their earnings.

Many retail loan officers attend a short course put on by the bank with whom they are employed and (unless they have been doing it a long time) are not educated enough to give consumers a well rounded offering of what certain loan products mean to them financially. Retail bankers sell only their own product and suggest that consumers take them when there may be better products in the market better suited for the consumer. I think that you will find that you will not solve the mortgage crisis by writing disclosures that "steer" consumers away from brokers.

Perhaps better language would be: "Mortgage Brokers receive compensation from lenders (This is sometimes called a Yield Spread Premium). They have a "wholesale" relationship with your lender and they have the ability to change your interest rate up or down depending on the size of the YSP they earn. Your ability to qualify for a loan differs from lender to lender and your mortgage broker may offer you a loan different than the one you requested. Your ability to qualify may afford you programs and pricing that is more or less than what you are applying for. The mortgage broker's compensation should be approximately the same for all types of loans but lenders may charge more for higher risk and less for lower risk."

The proposed changes to Reg-Z require that brokers, and only brokers, provide consumers a binding, written disclosure of the total dollar amount of their compensation (including YSP, Origination Fees, Processing Fees, Underwriting Fees and all other fees earned) prior to application. Requiring only brokers to provide such a disclosure will confuse and harm consumers who will mistakenly believe that lenders who don't disclose their compensation are saving them money. Additionally, the fact that we are asked to set pricing in a market that can change hourly is absurd. When the backing for the product is based on market conditions, we are asked to guarantee the future with way to control it. The client should be told that they can lock or float depending on their situation. If they choose to float and the pricing goes up, it should not be at the broker's expense. There are many instances where locking is not practical. When a person applies for a loan prior to selling their home or prior to looking for a home they should be told that they are going to be guaranteed a rate or price because the entire market can change while they settle on what they want. Requiring brokers to disclose their total compensation as a dollar amount before application will also lead to seat-of-the-pants service estimates based on partial information. A Mortgage Broker will be required to blindly, without adequate underwriting criteria, disclose to a borrower their total dollar compensation for a given loan without the opportunity to make adjustments based on unforeseen circumstances.

The language "You choose to pay a higher interest rate and your lender will pay your mortgage broker fees not to exceed $X" Again, "higher than what?" Why not just put "your lender will pay your mortgage broker fees" not to exceed $X"? This language is the most damaging and problematic in the last 20 years. It does not nothing except cast shadows over an already distraught industry. This industry was one of the largest and most influential in this last economic cycle and can be the key to delivering low cost loans to consumers without the infrastructure required on most banks retail business model.

The proposed changes to Reg-Z dictate harsh underwriting guidelines for a new class of higher cost loans, those with APR's that exceed comparable treasury yields by a certain margin: 3% above for first mortgages or 5% for second mortgages. The proposed triggers are far too inclusive and will subject many Jumbo, Alt-A, Agency-Jumbo and FHA loans to these new guidelines, preventing credit worthy borrowers from obtaining financing

This form MUST be changed to protect the consumer, our economy and the industry.

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