

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

DIVISION OF CONSUMER AND COMMUNITY AFFAIRS

DATE: October 6, 2009
TO: Public Docket R-1366
FROM: DCCA Staff
SUBJECT: Meeting with NAMB Representatives

On Thursday, September 24, 2009, Board staff met with representatives of the National Association of Mortgage Brokers (NAMB), at NAMB's request, to discuss the organization's concerns with the Board's proposal to revise Regulation Z for closed-end mortgages (R-1366). Concerns expressed by NAMB with respect to the proposal were limited to the Board's proposed regulation of loan originator compensation under proposed § 226.36. Those concerns included the following:

- The Board's authority to regulate loan originator compensation substantively, as opposed to regulation by disclosure.
- NAMB's concern that the proposed division between types of persons that would and would not be treated as loan originators is inappropriate. Specifically, NAMB indicated its view that the proposal's treatment of mortgage brokers (including ones closing in their names with "table-funding") as loan originators, while treating lenders that draw on their own warehouse lines of credit as creditors, is unfair and not supported by evidence. In NAMB's view, loan originators should be limited to natural persons.
- NAMB's lack of clarity as to whether loan amount would be deemed one of a transaction's "terms and conditions" for purposes of the provision prohibiting loan originator compensation that is based on any of the transaction's terms and conditions.
- NAMB's general concern that the proposal threatens the mortgage brokerage industry with undue harm at a time that it already is suffering substantial losses in market share because of both the state of the economy and other regulatory developments currently taking effect. NAMB indicated its expectation that the proposal would have negative practical impacts on the mortgage market, resulting in less competition and higher costs for consumers.