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Subject: Reg Z - Truth in Lending

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Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Comments:
This comment is address my concerns about the amendment to regulation Z on August 26, 2009 (Federal Register/Vol.74, No.164/Wednesday, August 26, 2009/ Proposed Rules, 43281). As a small mortgage broker, I feel that we give the client more choices and flexibility when looking for home finance. I also feel that I can price loans more aggressively then banks because I have more investors to choose from for a given scenario. That being said, my concerns over this amendment are primarily centered around the ability to generate yieldspread or broker profit, which saves the client out of pocket expense, as well as reduced competition, fewer consumer choices and an increased risk of improper steering. The proposed rule would encourage brokers to set up compensation agreements with lenders, which do not have to be the same depending on the bank. This could create a steering effect because an environment can be created where there is a financial incentive for the loan originator to go with the bank that pays a highest flat fee over another bank. This could also result in a higher interest rate for the client, which is the opposite of what the rule is trying to do. Another unwanted side effect of this proposed rule is reduced competition due to increased liability for brokers. This legislation opens up many brokers to lawsuits because of the complex process through which the Board requires brokers to defend and paper trail their loan offerings. This will be too expensive and too risky for the broker. I believe this will cause brokers to restrict their product offerings to lower their exposure, which in turn is a disadvantage to the client. The alternative for the broker is to close up shop. The third concern I have is that it will stifle competition because wholesale lenders may choose not to participate at all. Banks may close off wholesale conduits completely due to some of the reasons listed above such as the improper steering created by the small minority of bad brokers, and the exposure to legal actions that can be taken on brokers. This will result in third party origination as a less attractive option for investors. It seems that this legislation will

effectively do the opposite of what it's intention is. Improper steering which cannot be monitored except through civil lawsuits will be promoted. The majority of upstanding brokers and small business owners like me who perform a tremendous service for our clients and give them the ability to choose the best product for their scenarios with transparency will not be able to offer as many products in an effort to avoid liability. Lenders will limit their product options and availability due to the complexity, costs and unknown future liability that are created by the proposed rule. As a broker, I already disclose my compensation to the client. I believe I am one of the only wholesale industries that has to show a customer my profit margin. Even though the playing field is not level as originators at banks do not disclose yieldspread, nor does anyone but the bank know how much money they really make. Bank originators should have to play by the same rules as brokers as we provide the same service. Do you think that over-regulating brokers now will somehow remedy the lack of oversight in the past? What's done is done, and for the most part it is the de-regulation of the banks by congress that is to blame. I feel that the brokers today like me, who are trying to make an HONEST living, are the whipping boys for my government. Instead of spending time productively building my business, I find myself spending time to lobby for my industry's livelihood. I do not see how wiping out 40% of an industry does anything but hurt competition and put more people in your unemployment lines. I take pride in my work. I am a 100% referral. I out service, out price and out work banks every day. I do it with more transparency. I do it to make a living and to provide a service to my customers. I do it better than my competition, and my clients appreciate having the ability to choose me over some corporate machine that hoards taxpayer's money. On the other hand, HUD's approach, while not perfect, is more in line with our fair market system where two parties are free to negotiate in good faith. And as complex as some of the new regulation looks to be that goes into effect in January, why Board chooses to press forward with a much more complex system of multi-faceted agreements instead of giving a much simpler GFE a chance I cannot understand. I am requesting that the portion of the proposed rule be put on hold until the impact of the new GFE is known. Let's see if the newest addition to the mortgage regulation, RESPA, that hasn't even been tested, will actually have the desired effect before you throw more regulation on the table. What no one needs is new legislation that makes the process of getting a loan more confusing, moreexpensive, and harder for consumers to obtain. Sincerly, Ben Russ Managing Partner Hilton Head Mortgage