From: SVC Funding, Randy Omoto

Subject: Reg Z - Truth in Lending

Comments:

I have been in the mortgage industry since 1989 as a mortgage broker and I've had to encounter numerous times the attempt to eliminate YSP and each time it has been stopped simply because it all boils down to one thing.....it will HURT the consumer! Sure it would hurt the mortgage broker industry which is why it would hurt the consumer simply because this would number one create an uneven playing field as banks and correspondents will not be affected and even now they do NOT have to even disclose their compensation whereas a mortgage broker has to disclose this information as well as possibly not having this as a tool to get the consumers a better financing plan.

In theory I can see why a person "outside" our industry would see YSP as a bad thing. I mean think about it on the "surface"....a mortgage broker can steer his client to an exotic loan such as one with negative amortization or one with a prepay penalty or one with stated income which may or may not be bad for the consumer and then ALSO get more YSP and thus a higher commission to do the deal! Sounds pretty bad for those not in the mortgage industry.

But a few facts to think about as there are always 2 sides to every story and situation.

First the "exotic" loans like ones with negative amortization, prepays and stated income are no longer around as well as those lenders offering these programs. Secondly and more importantly this was not an industry problem but an individual problem and most if not all of the "bad seeds" in our industry are gone simply because those products they sold to get higher commissions are gone so they went hand in hand. Lastly, it seems draconian to those left in the mortgage industry to "punish" our industry and thus our clients just because of a few who took advantage and are no longer around. Sort of like punishing the whole class of 30 students because 2 of them were goofing off!

YSP is used as a tool for us mortgage brokers in various ways to help our clients meet THEIR needs. For example many clients especially in this environment do not have the liquid funds to refinance by paying $3k in closing costs nor do they have the equity to do so. Thus YSP is used to bump up the rate by .125% to .25% to then be able to use the higher YSP to pay for the borrowers closing costs. This doesn't mean the broker gets a higher commission and in fact this usually means a LOWER commission because the added YSP doesn't always cover all the costs so thus it eats into the regular part of our commission. But the end result is that the borrowers get to refinance at still a lower rate than they have AND not have to pay out of pocket or finance their closing costs.

Another way YSP is used is the classic case of a borrower buying a home and they're generally scraping to come up with the down payment and closing costs and if not for YSP then they would also have to pay POINTS which is 1% of the loan amount so if the loan amount was $300,000 then 1% or 1 point they would now have to pay would be $3,000! Ask any home buyers if this would "hurt" them when trying to buy a home and also ask any home buyer that when they bought their home if they paid points or no points and I'll bet you that the vast majority will tell you that they paid little or no points. Currently we would use YSP to give the consumer these options and remember the vast majority of all originators use YSP to the BENEFIT of the consumer.

Now are "some" originators abusing YSP and not giving the consumer the best possible financing because of YSP?? Certainly, but you're never going to have any system where there are NO abuses and if you really do your research with

CONSUMERS you'd find that they are the ones benefiting because they can do a refinance with NO closing costs using YSP to bump up the rate .25% to pay for their costs or buying a home with no points and using YSP to bump up the rate which allows them to not have to come in with added costs. You should not "punish" these borrowers who are benefiting just to help the very small percentage of those not benefited by YSP. No YSP would also hurt consumers who are buying rental properties as Fannie Mae and Freddie Mac have "hits" to pricing for these loans since they're riskier and those hits are around 1.75% points. Without YSP the borrowers would have to pay this PLUS points on top to the originator (otherwise the originator would be doing the loan for free) so the points could be around 3 points and on a $300k loan that would be $9,000 just in points to buy a rental property!! With YSP we could "bump" up the rate to cover most of this and thus help the consumer or at least give them "options". I mean how many investors would rather pay .25% higher in rate versus $9,000 today out of their pocket? At the very least they currently have this OPTION but with no YSP this would NOT be an option.

With the advent of the internet and email there is virtually little chance that a borrower doesn't know if they're getting a "good" deal or not. I've been doing this for 20 years and almost 100% of my business consists of past clients and referrals so these clients know and love me for the most part yet they will STILL do their research and trust me they know what is a good deal or not and this was before the internet came into play and so even more so now.

Lastly, lenders previously were to blame for many of these ills because if I were an underwriter and I saw that a loan originator was getting his client into a negative amortization adjustable when they had a nice fixed rate and were salaried borrowers PLUS getting a 3 point YSP and a prepayment penalty then I would really make them explain why they are doing this because it made no sense!! Those loans basically should have been for self employment people who's income fluctuating or those on commissions because that loan made sense as they could make the minimum payment and then when they got paid their commissions or whatever they could make that payment up so as to not go negative. Now this can't happen because those loans don't exist but more importantly lenders now have a "benefit to the borrower" guideline and so if it doesn't meet their criteria then the loan doesn't go through!! And these are on regular fixed rate loans!!! Lenders have also capped YSP and max compensation
so this is another avenue that has curtailed abuses. Borrowers routinely have to sign documents acknowledging what they're getting detailing the rate and even the YSP.

I am all for protecting the consumer but if you look carefully at the facts you'd see that there is more harm to the consumer by abolishing YSP and/or even going to a fixed compensation to originators since that wouldn't give consumers "choices" and decreasing their options equals consumers being hurt.

My suggestions would thus be:

- Keep YSP but make the max like 1.50% or 2.00% with perhaps only higher YSP available for smaller loans or investment loans
- Lenders to really enforce the "benefit to borrower" as really this is where it should start and it would end a lot of the so called abuses. For example if a broker gave a rate of 5.75% to get a 3 point rebate on a $400,000 the lender could have guidelines in place where this would be excessive whether it's because it exceeds the max compensation allowed or even if the agent was doing a no cost loan then this would still be excessive after paying the costs. Thus the lender would force the agent to get the borrower a rate of 5.50% with a 2 point rebate and still benefit everyone. Basically run like every household in America where the child asks his Dad for $40 to go to the

movies and Dad says why do you need $40 to go to the movies?? If the child doesn't come up with a good reason then Dad just gives the child $25.

· Prepayment loans would NOT have YSP as the benefit to the lender would be that the borrower is locked into that rate for a specified period and the borrower would benefit because of a lower rate because of the prepay penalty but the loan originator would have to charge points to do so because of no YSP and thus stop the abuse of shifting borrowers into a loan to get YSP or higher YSP. Like I said earlier there are no more "exotic" loans such as the option adjustable which had a potential negative amortization so you don't have to worry about that as really the loans out there are the standard vanilla loans (fixed rates and intermediate adjustable like 3, 5, 7 and 10 years).

· Any adjustable rate loan would have less YSP than a fixed rate thus curtailing any possibility of an loan originator shifting to these loans to get a higher YSP. For the most part I think we all agree that "generally" the safest and best loan is a fixed rate loan although certainly not in all cases.

Sincerely,

Randy Omoto