From: Southern Arizona Mortgage Lenders Association, Tom Heath

Subject: Reg Z - Truth in Lending

Comments:

As the 2010 President of the Southern Arizona Mortgage Lenders Association (SAMLA), I must express concern over the Federal Reserve Board (The Board) proposed Rule revising Regulation Z as it pertains to closed-end mortgages and the proposed changes to mortgage originator compensation, and anti-steering language.

SAMLA stands firmly opposed to all forms of steering and appreciates the Board's effort to eliminate the practice. However, we feel that the Board's proposal goes too far, threatens small business, undermines professional standards, and ultimately, harms consumer wellbeing.

The Board states that Yield Spread Premium (YSP) is at the core of an originator's inducement to steer a borrower into a less advantageous loan in exchange for higher commission. YSP, however, offers consumers the ability to finance closing costs into the interest rate of their loan, reducing their upfront obligation by increasing their monthly payment. Eliminating YSP would eliminate consumers' options in structuring loans and create barriers to home ownership for borrowers who cannot afford closing costs in addition to down payment, but have the desire and ability to pay a higher monthly payment. It is imperative that consumers keep this ability to structure loans in a manner that best suits their needs.

The Board proposes to restrict loan originator compensation by having it paid either by the consumer or the creditor, but not through a combination of the two. Alternate options include banning payment to an originator based upon the terms of the loan. If the cost of the loan is absorbed solely by the borrower, the market will dictate that either a mortgage professional reduce their fees or a consumer will not be able to afford the costs and therefore be unable to obtain the loan. If the burden is on the creditor solely and an originator cannot be compensated variably based on the terms of the loan, the unscrupulous originator will continue to seek out the creditors offering the highest fee regardless of quality of service or terms of the loan.

Any of the compensation models proposed will create barriers for professionals to charge adequately for their services. On the surface, reduction of fees appears to help the consumer, but limiting compensation will force experienced and qualified mortgage professionals from the industry and create a void to be filled by less experienced individuals.

The mortgage industry has undergone a transformation in the last eighteen months and the market has eliminated many of the originators this rule targets to restrict. With the passage of the SAFE Act, Congress created a mortgage profession requiring education, testing, civil, criminal, and financial background checks; all designed to increase consumer protection by heightening the level of professionalism in the mortgage industry. We agree with FHA Commissioner David Stevens who stated: "By introducing nationwide standards of uniform licensing for loan originators, the SAFE Act is taking an important step in returning integrity and accountability to the residential mortgage loan market. Implementation of this Act is a critical addition to our system of regulatory protections that will benefit both consumers and financial institutions."

Additionally, all originators now have a unique identifying number that will be attached to each loan application they originate, making it now possible to hold specific originators accountable for their loan performances.

The Board's proposal threatens to undermine the creation of a more professional industry by restricting a professional's ability to earn a fair wage for services performed. Standards and accountability have been increased and will, by design, lead to more consumer protection and limit the acts of unscrupulous players.

SAMLA believes the fee structure for each loan should remain as a negotiation between the borrower and the service provider. We recommend that the Board adopt the uniform and clear definition of "steering" stated in the proposal, include it in the pre-licensure education, create penalties for violation, and sanction those that show a pattern of violation.

It is critical to the vitality of housing market and, by extension, our economy to allow mortgage professionals to charge a fee that is commensurate with the work being provided and to allow consumers the flexibility in how they choose to pay for the service.

Thank you,

Tom Heath

2010 President

Southern Arizona Mortgage Lenders Association