

From: Dave Boyd  
Subject: Reg Z - Truth in Lending

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Comments:

I have submitted this twice over your website and have not seen this post.

Chairman Bernanke and the Governors of the Federal Reserve

Concerning R-1366

There certainly has been in past years, unfair treatment of some mortgage customers due to a number of factors. These include untrained loan officers, loose underwriting guidelines, fraud - both intentional and unintentional, customer demands, loan programs and so forth. No reasonable person will deny that there have been issues.

What is important to keep in mind is that the marketplace has resolved these issues itself. Loan programs and lenders have disappeared, loan originators have left the industry, and there are much improved checks to discover fraudulent activities.

In the past two years, many governmental agencies and bodies have enacted laws and regulations concerning the mortgage industry. In my analysis of these laws and regulations, I have yet to see anything done which has improved the process for the customer, lowered the cost for the consumer, or made the process of obtaining a mortgage more efficient for the consumer.

For example, the Home Valuation Code of Conduct (HVCC). HVCC has resulted in higher appraisal costs, longer turn times, and often lower quality appraisals. My last experience with an HVCC appraisal cost the customer almost a 50% premium versus our local appraisers and required 15 days to complete where our local appraisers would have finished the appraisal in 3-4 days.

The Mortgage Disclosure Improvement Act (MDIA) has added additional complication to the process and has created more confusion for consumers. Consumers are now provided multiple versions of disclosures including the Truth in Lending (TIL). Consumers feel overwhelmed by the sheer volume of documents they receive and frankly, very few if any understand what the Annual Percentage Rate (APR) actually means.

Now the Fed wants to deny mortgage brokers the ability to use Yield Spread Premiums (YSP) to enable real estate purchases or refinances.

One of the reasons the Fed wants to eliminate YSP is due to "economic injury to consumers" from lack of transparency and lack of understanding. The transparency claim by the Fed is baffling. YSP is disclosed on the Good Faith Estimate (GFE) and the HUD-1 signed by the borrower at closing. It is presented clearly to the customer on multiple occasions. How the Fed can claim this not transparent defies logic.

Depository institutions receive a Service Release Premium (SRP) when they sell the loan to one of the Government Sponsored Enterprises (GSE). This SRP is not

disclosed to the consumer at any point of the transaction - not on the GFE or on the HUD. If YSP which is clearly disclosed to the consumer is not transparent, how is SRP deemed to be transparent? When a customer goes to a bank and obtains a 5% 30 year mortgage, there is no disclosure as to what the bank is making on the loan. When a customer gets an identical loan from a broker, the broker's compensation is clearly disclosed. It seems to me that the Governors should also demand that depository institutions disclose SRP.

You also say that consumers do not understand the "implications" of YSP. In my experience as a loan officer, consumers do not care about YSP, SRP, or APR. Their focus is on three factors 1) amount borrowed 2) interest rate 3) payment. I would even suggest there are some loan officers at depository institutions who do not understand APR.

Eliminating YSP will only create further harm and damage to consumers. This proposed regulation will eliminate the competitiveness of the broker channel likely leaving depository banks as the consumer's only option for a mortgage. Thus with less competition, these banks will be able to increase their margins.

The proposal also states that since consumers do not understand YSP, they do not know how to engage in effective negotiation. Chairman & Governors, how can you say that consumers do not understand YSP when SRP is never disclosed in any fashion to the consumer? Even more, this assumes the consumer does no comparison shopping and that there is no competition in the mortgage industry. Consumers know where interest rates are and are smart enough to determine if they are being charged a fair and reasonable rate. This is no different from shopping for any other product or service. Very few if any consumers only inquire about a mortgage through one lender.

There are many businesses which receive their own version of YSP. Take for example car dealers. Most car dealers have a finance person at the dealership who offers loans to customers. These people are not regulated in any way, have no background checks, and do not disclose their profits on the financing. YSP is simply the difference between the wholesale cost the retail cost. Customers expect us to make a profit. I have never purchased a product or service and expected the provider to not make a profit.

One factor I sincerely agree with is a statement I read from Representative Barney Frank who said there needs to be one governmental agency who is providing regulatory oversight over the mortgage industry. This is desperately needed. There are simply too many governmental agencies and bodies (at both the federal and state levels) promulgating too many regulations. All that has happened is through these past two years are increased costs for the consumer, lengthening the lending process and creating confusion for the consumer through countless disclosures.

In 2010, every loan officer will be required to obtain a national registration number. This is a very positive move as it will help to get the undesirable people out of the industry. There is a significant shortcoming in that only those in the broker channel will be required to pass a competency exam with continuing education. This competency exam needs to be applied to all loan originators regardless of place of employment.

I urge you to not enact R-1366 as this will not solve any issues - it will only hurt the consumer, the real estate market, and the lending industry.

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