From: Opes Advisors, Inc. , Ann Timoney

Subject: Reg Z - Truth in Lending

Comments:

Good day.

I am a loan originator and have worked in the mortgage industry since 1976. I am also a financial advisor and am registered with the SEC as an Investment Advisor Representative. As such, I hold a fiduciary responsibility to my clients. My company is structured as a mortgage bank. We also broker loans from time to time. We are also a wealth management firm that provides extensive planning for mortgage customers.

When I buy a car, insurance, clothes from a department store, investment services, a cell phone, a TV, or almost anything, I know the sales person is likely to be receiving an incentive or commission. How much? I don't know. It is up to me to ask, inquire, investigate, or study written agreements and fine print that may or may not disclose such compensation. That is my responsibility as a consumer of services and products. These costs add up enormously over time - just like on a mortgage. Where is the scrutiny and protection for consumers in all avenues of business?

Please consider that the barrier to entry to mortgage industry for originators is very low. Raise standards for quality of originators: Credit history, background checks, education requirements, apprenticeships, certifications, continuing education, ETHICS. This is not a simple industry and the needs of mortgage clients are not simple.

Please consider making it a requirement that all first time home buyers have Home Buyer Education which includes a good, in-English segment on understanding loan fees, points, YSP's and how it all affects their interest rates and what choices are available to them. These education requirements are usually only required on Community Reinvestment Act programs.

From the proposal, you will eliminate yield spread premiums as a source of compensation for originators. This means you eliminate a choice that borrowers have about how their loans are structured. If the concern is the amount of YSP that originators are paid, then limit it to 1% or 1.25% of the loan amount, and any overage must be credited to the borrower's closing costs. This would remove abusive incentives and still allow the borrower to have this choice. And, originators typically do not receive the entire YSP as compensation. They typically have compensation agreements with their employers and receive a portion of the YSP with the company receiving the remainder.

From the proposal, an hourly rate may be a method of compensation to originators. How will this work for the couple I have been working with for 2 years prior to having an offer accepted on a home? I have had multiple meetings and updates to their file, have provided pre-approvals for 5 other properties they made offers on, and have many, many hours involved with them. They are not my only long-term clients. I have received no compensation at all, nor hasmy company, and the current structure is that I will not receive any compensation until a transaction is closed. I accept this - this is the way it works. So, how much per hour? How many hours can be billed? How often is billing allowed? Multiply this by a couple of hundred thousand originators and millions of customers. Or, is the hourly rate to be part of wage compensation to originators? There is no clarity in the proposal.

What about overtime pay when I work until 10 at night to get something handled for a client? Or meet clients on the weekend, or go to an offer presentation with the Realtor? What about the files that arevery complex and require 30 to 40 hours of work to get them through, where a less complex file may take 15 hours of work?

A flat fee of a minimum of $1,000 per loan or a maximum of $5,000 is also questionable. For example, I live and work in a high cost area for property values. If I am working with a client who needs a $2,000,000 mortgage and my maximum fee is $5,000, then I will focus my attentions on doing more of smaller transactions and less of larger ones. Why? Complexity and difficulty associated with super jumbo loans is high. They take more time, more expertise, and more diligence. Will the proposed compensation structure cause higher-end borrowers to be underserved? Likely, yes. Why should I, as an originator, devote my time and resources to a 2M loan, when I could close 4 $500,000 loans and make 4 times the income? Please consider what your proposals would incent people to do!

If, as part of the proposal indicates, originators would potentially be compensated on loan volume closed (the example was increasing a flat fee of $3,000 per loan to a flat fee of $3,250 per loan if volume increases.) then, again if there is a cap on compensation, and I am not incented to work on larger transactions, then my volume will be reduced as a result and my income level is likely to stay lower. Although this may sound self-serving, if I am thinking about this, others will be thinking the same thing. My point is that part of the home financing customer base is likely to be ill-served by these proposals. Is that fair? Does that cause injury to consumers?

If the borrower pays the originator directly, as is proposed, then how much is allowed as payment? If it is 1% of the loan amount, for example, what I haven't seen in any of the language is tax considerations. Loan points paid for financing for the purchase of a primary residence is a tax deductible expense. Will a fee paid directly to an originator be tax deductible as far as the IRS is concerned? If it will not be deductible, that will be a disincentive for home buyers to want this fee structure for their mortgages, would it not? This would cause injury and financial damage to home buyers due to loss of tax deductions. As a result, homebuyers would be likely to want a structure that allows them to reduce or eliminate this expense, and this cost can be reduced with yield spread premiums, or they can use the current structure in which loan points/origination fees are deductible expenses and are a percentage of the loan amount, and that are the basis of compensation to originators.

Currently "direct lenders" including banks and mortgage banks, are not required to disclose YSP's. Why not make the disclosure rules for direct lenders the same as they are for mortgage brokers? This would even the playing field and provideuniform disclosures on all fronts. Greater uniformity can contribute to greater consumer understanding.

If the assessment is that consumers generally don't understand YSP's, and the disclosures in existence are assessed as ineffective or insufficient to explain them, then require CLEAR explanations to be made by originators both verbally and in writing. Require originators and loan companies to disclose the precise pricing obtained at the point of locking in the loan terms. I explain YSP's to clients all the time, and guess what. They understand the explanations and use their understanding to make their choice of pricing!

The mortgage industry and the marketplace have already forced out many thousands of originators who entered the market during the boom. Because they don't have established clientele, or much more than mediocre skill, and because many of them undoubtedly betrayed their customers and went for the money, they can not have long careers in this industry. A big part of the originator problem is already gone because these people are out. Another big part of the originator problem is gone because underwriting rules are finally back down to earth and full documentation is required again. In a sense, the barn door is already closed.

Yes, I have a vested interest in maintaining our historical pay structure. I admit it. This is my career and I have a good 10 years to go. And. new laws and rules rarely take into account farther reaching implications and situations that will be caused by them. Witness the Alternative Minimum Tax that was originally designed to prevent 200 tax payers from avoiding taxes in sheltered investments, and now this regulation affects millions of citizens by increasing their federal income taxes.

Please, please consider how your proposals will change the behaviors of originators and the services provided to consumers for their mortgages. Please, please consider how your proposals will change the availability of various financing structures for home buyers and homeowners. Please, please consider how real, comprehensive and full disclosure will help consumers have better choices for home financing.

Respectfully submitted,

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