

From: Fairway Consumer Discount Company, Mark Warshal  
Subject: Regulation Z -- Truth in Lending

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Comments:

From: Mark Warshal  
Date: 11/29/2010 04:06 PM  
Subject: Regulation Z - Section 226.42 - Valuation Independence

Dear Ms. Ryan:

Pease allow me to bring to your attention section 226.42 (d)(1)(i) of Regulation Z, entitled "Prohibition on conflicts of interest". This section seeks to create a firewall between the "valuator" of a home and the decision maker who decides if the home loan will be made.

Throughout the country there are many small, family owned finance companies like mine, who portfolio every loan they make. These small finance companies have only two or three employees and have assets under 30M. The owner/operator values the properties and determines if the loans will be made. We lend locally and play a critical role in our communities, especially among middle and lower income families who traditionally have difficulty borrowing the money they need.

Companies like mine survived the mortgage crisis precisely because we did not rely on 3rd party appraisals. We knew that real estate prices were unsustainable and we limited our risk by lending less. The mere fact that I am here writing to you today is proof positive that there is no conflict of interest when an owner/operator of a small, family owned finance company values a property and makes the lending decision.

Please note - when I make a bad loan, it is my own money I am losing. That is strong incentive to value a property correctly.

In case you do not know, appraisals are notoriously unreliable. By requiring me to get an appraisal, you are hindering my ability to make a good loan and creating an unnecessary additional charge for the borrower. (I have never charged a client to inspect his property.)

I urge you to carve out an exemption for independent lenders with assets under 30M (adjusted for inflation annually) where the owner actively manages the company, sees the properties, and makes the lending decisions.

I know that regulations are difficult to construct properly. Please take the extra time needed to construct this regulation correctly so that those companies like mine who did everything right over last 10 years are not penalized for the abuses of the Ameriquests and Countywides of the world (both of whom are out of business).

Thank you for your consideration. I would be more than happy to further discuss this issue with you, at your convenience. Please do not hesitate to contact me.

Mark Warshal  
Fairway Consumer Discount Company