

From: Anonymous
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Comments:

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Proposal: Regulation Z - Truth In Lending Act
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Comments:

I have been working in real estate related businesses for over 30 years. I witnessed the disintermediation of banking and mortgage rates of 12% in the late 70's, the S• crisis in the late 80's and now a recession/depression with systemic financial failures. It is readily apparent to me that new regulations are necessary and that past deregulation precipitated systemic risk taking that benefited a few at great cost to American citizens. I am an appraiser, and as such do not have the political clout of a Washington Mutual or Countrywide. Politically motivated deregulation was the root cause of the past financial crisis, and it is critically important that new regulation be effective and structured properly. The implementation of HVCC, while I assume well intentioned, had deleterious effects. What business in America has their clients taken away and replaced by another company that demands almost half the revenue? This never would have occurred if for instance the same tactics were foisted on attorneys. Regulation and law can never force anyone to behave ethically. It can only limit the damage to acceptable levels. A good quality appraisal is the result of a professional effort. A professional with decades of experience will not choose to work at today's cutthroat AMC fee structure, production demands and increased scope. The economics are simple; consider what a college graduate with years of professional experience earns and anyone can see that today's AMC fee structure is absurd. Before licensing, in 1989, I often collected a check from the homeowner at time of inspection that was more than what many AMCs pay today. Behaving ethically and producing a quality appraisal is the result of belief in the rules and regulations, and the desire to be a professional. This becomes more than problematic if you're going broke and know you're being cheated by misguided regulation. It is the duty of the lender and client to review and control quality. Of course they know this and do not want a repurchase demand letter from FNMA. If they choose to outsource appraisal management, in lieu of hiring staff then that cost should be borne by them. What is in force now is the golden rule: those with the gold make the rules. The management decisions made by the likes of WAMU were egregious and systemic. Many of the appraisals I have reviewed

from 2004-2007 were blatant fraud. They knew the collateral was not being evaluated properly. Corporations exist to benefit shareholders, and have no conscience. Good regulation can however make them more risk adverse. Hopefully your regulation will bring new balance to the system, which has in many respects, and for many years, been a highly efficient means of financing home purchases. I endorse the following: As currently presented the Interim Final Rules have an inherent conflict within "Presumptions 1 and 2" of Customary and Reasonable Fees. This inconsistency is evident by allowing the lender to be compliant by adherence to two diametrically opposed options: Presumption 1: Established market fees without specific exclusion of fees paid by AMC Presumption 2: Established market fees with specific exclusion of fees paid by AMC (as proposed by the Act) The existence of Presumption 1 is in conflict with the Congressional intent of Title 14 of the Dodd-Frank Act. In order to protect lenders and consumers, Congress recognized the critical importance of engaging appraisers at a fee that allows for thorough analysis and diligence by the most competent appraiser. Not engagement based on lowest fee and rushed completion expectations. Solutions: Removal of Presumption 1 in order to remain compliant with original Congressional intent as defined in Presumption 2 If removal of Presumption 1 is not an option: Clarification that 100% of the fee paid by the consumer is the fee to be paid to the appraiser. Appraisal Management Company fees must be paid by the institution receiving the benefit of these services, the lender, not the consumer. AMC management fees can be defined any number of ways and customarily by Request For Proposal. Appraisers recognize the valuable services AMCs provide to the lending community, however, the benefits enjoyed by a lender from the AMC's national coverage, loan underwriting functions, appraiser independence compliance, etc should not be borne by the appraiser through the reduced appraiser fees paid by AMC's. Credible appraisal reports play an integral role in the safety and soundness of the lending process. As intended by Congress, Presumption 2 will provide consumer and lender with valuations established by professional appraisers with the resources and time to complete a thorough valuation.