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Subject: Reg Z - Truth in Lending

Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Comments:
I am a licensed Texas Mortgage Broker, small brokerage business owner, and the appointed mortgage member to the Finance Commission of Texas. Please allow me to comment on the Federal Reserve Board Proposed Reg Z Rule on Closed-end mortgages (Docket R- 1366/Reg 43232). The mortgage industry has experienced great difficulties and is under fire. Much warranted and targeted regulatory change occurred throughout 2009 from many federal agencies, and much is pending implementation for 2010. Yet, as a small business owner, I am gravely concerned that the change unduly impacts small businesses and the mortgage consumer. The change has left the large banks unaffected. An important balance must be maintained to avoid over regulating the solution; causing major unintended consequences, such as freezing the mortgage markets, limiting consumer access to loans, and dampening the housing recovery underway. First, let me address the originator compensation issue. YSP provides significant benefit to the consumer and is routinely used for the consumer's benefit, in structuring and reducing loan cost. At Houston Capital Mortgage, our customers have for many years chosen regular fixed rate loans with lower costs, such a no origination fee or reduced closing costs, because we apply the ysp to those costs. Reputable lenders do not use YSP to steer consumers into undesirable products. That ill was cured by removing undesirable subprime and alt a products from the marketplace, the correct solution to that problem. The remaining issue will be dealt with in the SAFE Act (national mortgage licensing) being implemented presently, which will regulate and eliminate offending actors from the marketplace. YSP is also very important in financing small loan sizes in lesser priced neighborhoods. Eliminating ysp eliminates a very important consumer option in mortgage finance; will result in higher cost to the consumer, less availability of low loan sizes, serious unintended consequences. The Fed must permit the ability of paid compensation based on loan amount percentage, not a flat fee. Furthermore, the Fed should avoid this rule entirely, as the new GFE

and HUD changes will affect borrower behavior, and the concept of tolerances and ysp disclosures will positively impact consumer's choice and cost.
Secondly, let me comment on disclosure issue. The definition of creditor needs revision to allow mortgage brokers to provide pre-application disclosures, the first point of consumer contact. APR disclosure must be revised to coincide with RESPA's GFE/HUD changes in effect January 1, 2010. As a 27 year seasoned broker, APR is the single most confusing consumer lending concept. It is not understood, not easily explained, and now improperly calculated with the RESPA GFE/HUD change. Focus groups with consumers and industry professionals should be utilized in developing the right solution to assure the best outcome.
Furthermore, any and all change must be agency to agency coordinated, and the new CFPA must be involved in this process. Revising and clarifying disclosures is a worthy goal, but it not accomplished by this rule. The Fed should withdraw this proposal, coordinate a solution with RESPA and CFPA, to ensure a workable solution; and avoid creating new problems in a difficult environment.