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Re: Regulation Z – Truth in Lending – Closed End Mortgages [R-1366]

Dear Federal Reserve Representative:

I am writing regarding the proposal for Regulation Z – Truth in Lending – Closed End Mortgages [R-1366]. I am a loan originator who has been in the lending business for 5-1/2 years, and I have seen the ill effects to our entire economy of consumers getting mortgages that they don't understand fully prior to closing. I know that the intent of these new regulations is to protect consumers from unfair lending practices, but the effect of these regulations will greatly harm consumers, and will injure small businesspersons as well. I'd like to let you know what I believe will happen if these regulations are passed into law, and ask you not to go forward with this ill-conceived legislation.

To begin with, Reg Z will do away with lender paid broker compensation, sometimes called "YSP", or "yield spread premium". This alone will limit lending, and will make it extremely difficult, if not impossible, for many consumers to buy homes or refinance their mortgages. Borrower closing costs would be dramatically higher because originator compensation will be paid directly by the borrower, with no option of the rate/price flexibility that is now available, and there will be more opportunity for secondary marketing to increase profits at the consumer's expense. With these high closing costs, many first-time buyers would be eliminated from the purchase market. This chilling effect on opportunity will stall the fragile housing recovery that is just beginning in some parts of the country, and that will lead to an even longer recession. YSP does not present a significant risk of economic injury to consumers, but rather helps low-income, entry-level borrowers. The assumption that YSP is injurious to consumers has no empirical data to support such claims. In fact, by giving them the option of closing their loan without having to pay up front points, their closing costs are lowered, and YSP is actually a benefit to consumers.

This is really just the beginning of the problem with Reg Z. Because the proposed regulations reduce the opportunity for the consumer to choose pricing options, borrowers are injured by the lack of pricing flexibility, and originators would be encouraged to steer loans to the lender with higher flat fee. Furthermore, consumers would be further confused by non disclosed "private" compensation agreements between lenders and originators. Even worse than this, borrowers with small loans would be discriminated against, because their closing costs would represent an even higher proportion of the loan amount when compared with the current way of pricing loans. In fact, closing costs to borrowers for small loans would be so high that lenders would be discouraged from lending and borrowers would be discouraged from even applying for loans in the first place. This is not a benefit to consumers – in fact, it is quite the opposite. Low income borrowers who can only qualify for small loans would be priced out of the market or severely penalized by high costs. In fact, the proposal does not allow loan originators to reduce compensation to benefit hard-pressed borrowers.

A further negative effect of the proposal is the way in which it will stifle competition and encourage steering. Under the new regulations, enforcement of existing anti-steering regulations would be difficult or impossible to enforce. An environment for greater litigation and burden on loan originators will be created. The vast majority of loan originators are ethical, hardworking small business men and women. It is unfair to place the entire burden of liability on the shoulders of the loan originator. This is like saying that a car salesperson should be held liable for anything that goes wrong with the car –

even if it is a manufacturer issue. Many brokers and other loan originators will cease lending as result of skyrocketing liability. Additionally, many banks will choose to cease participating in third party originations, which will further stifle competition in the market. In fact, it seems to me that the true beneficiary of Regulation Z is the large retail banks, who are not required to disclose their compensation to borrowers at all (unlike brokers, who must disclose every penny of compensation to the borrower) – because of the reduction of competition from the broker, or wholesale, lending channel. As you can see, this proposal will damage small business as well as the consumer.

In summation, I want to stress that this proposal is not feasible or practical in today's market place for many reasons. As market conditions change, the spread between par and "flat fee" pricing increases, causing borrowers to be forced out of the flat fee option (rates would be too high) or pay high up-front fees. This injures the consumer. The proposal creates an environment with too many adverse and unfavorable effects on the industry, and would prevent secondary market from returning to normalcy, and therefore severely slow our economic recovery, which could most optimistically be described as fragile at this point. The proposal won't do anything to "clean up" ethics problems in lending: bad originators would work the system while good originators would be driven away. The elimination of competition would eventually lead to monopoly. Brokers will not be able to compensate loan originators on a hourly basis without some certainty of being paid. Tracking hours spent on each loan would be impossible and impractical, and this would also hurt consumers who happen to select a slow originator.

When you look at all of the problems with Regulation Z listed above, it's easy to see that this simply is not the path we should go to solve problems in the lending industry. Although its intention is to protect consumers, it does nothing of the kind. Rather, it harms them as well as small businesspeople all over the country. Please do not move forward with this proposal. Instead, please meet with representative of the lending industry, both banks AND brokers. Take some time to learn more about how we ethically and honorably meet the needs of our clients, and how pricing and compensation work, so that any new regulations that are proposed in the future actually do protect consumers. If you would like to discuss this issue with me, please feel free to contact me. Thank you for your consideration.

Yours truly,



Evelyn Rogerson

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