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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 applaud the Fed for attempting to curtail many of the excesses with regard to originator compensation that have happened over the past decade. Loan originators were steering consumers into loans that were simultaneously more profitable in the secondary market and therefore paid higher compensation and were indefensibly worse for the borrower. The lack of disclosure of the total compensation from all channels, including wholesale, correspondent, and direct lender is something that needs addressing and should be equalized throughout the industry. By disclosing total compensation in advance, the consumer is better able to negotiate a fair deal with an originator. By having either no disclosures, or different disclosures for different channels, the consumer is ill-equipped to make sure they are getting a fair deal. Secondly, and more importantly, the Rule as proposed will have dire negative unintended consequences to consumers. The most likely scenario that will go into effect on the wholesale channel is some sort of flat fee arrangement with each lender. If each lender has a different flat fee agreement with each broker, then this will cause more steering, not less. The broker will effectively be incented to 'steer' the consumer to the lender who is paying the highest kickback, regardless of rate. This is subtley, but importantly, different from YSP. YSP still allows the broker to shop various lenders who all offer the same rates at different prices. The rate that the consumer ends up with is the lender who had the best rates that day. Since a lender who pays a high flat fee wouldn't necessarily have the best rates on any given day, then the broker would have to decide between giving the consumer a higher rate than the broker could have delivered with another, lower fee, lender. It's promoting exactly what the rule was trying to deter. With no way of enforcing the rule the compliant brokers will cease to exist and the non-compliant brokers will fly under the radar until they are caught. In my opinion, HR 1728, as originally written was much

better for the consumer. It retained the ability for the consumer to finance closing costs through rate. However, it required that the compensation not change based on rate/terms, etc.. This means that if a broker's total compensation is 1.25%, then that number cannot change no matter if the broker is charging it directly to the consumer in the form of an origination fee, or is getting it indirectly through the rate via YSP, the amount of the compensation cannot change. This way, there is no incentive for the broker to quote 1% origination at a par rate and then quote a rate that pays 1.5% in YSP when the rate changes or the product changes. If the amount of compensation remains constant no matter what the rate/product/terms/prepayment penalty is then there is no incentive to steer the consumer into a worse product. I would suggest that the Fed take a good look at the anti-steering language in HR 1728 and adopt that rather than the proposed rule.