

From: John E Hodgkins
Subject: Reg Z - Truth in Lending

Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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December 20, 2009 To Whom It May Concern: I'm writing in response to the Federal Reserve ("the board") proposed amendment to regulations Z, and the invite for public comment on the proposal until December 24,2009. My Name is John Hodgkins, of Glastonbury, CT. I am a licensed mortgage originator for Connecticut Mortgage Services("CMS"), a mortgage broker. Our company has 15 employees and 8 licensed originators. Our company funds annually over 600 residential home mortgages. I believes the amendment, although well intentioned, will not provide a viable solution(s) to the problem it seeks to solve. The Board's goal is to eradicate incentives to provide consumer loans with higher interest rates or less favorable terms. "When loan originators receive compensation based upon a transaction's terms and conditions, they have an incentive to provide consumer loans with interest rates or other favorable terms. Yield spread premiums (YSP), therefore present a significant risk of economic injury to consumers. Currently, such injury is common because consumers typically are not aware of the practice or do not understand its implications and cannot effectively negotiate its use". (Federal Register / Vol. 74, No. 164 / Wednesday, August 26,2009 / Proposed Rules, 43281.) The Board, associates the above practice or potential practice as unfair, deceptive or designed to evade provisions of TILA Section 129(1) . Thus the need for the above amendment. From our understanding the Board as sought solutions to the above as follows; - Compensation Agreements would need to exist between indirect lenders and all our lender partners. - Flat fee option - Improper Steering clause The above amendment(s) are all an effort to solve a problem , to protect consumers by providing clarity in regards to the actual cost of credit, thus preventing unfair practices. We understand this problem and as significant members of the greater Hartford, CT Mortgage lending market, I want the best ALL for mortgage consumers. I understands with great pause the crisis our industry is weathering since 2007. We have heard the outrage and know even two years later there is still a significant mess to clean up. We are

aware there are those in both direct and indirect mortgage lending who participated in loan fraud and unfair practices toward consumers, and that these practices along with falling property values, loan products with low character requirements and the near fall of our entire financial system created a "perfect storm" that we read about still today, as over 7 million jobs have been lost. However, we are not all unscrupulous brokers. There are qualitative economic reasons that mortgage brokers have become such a large provider of mortgage originations. It has much more to do with mortgage brokers effectiveness in the small business communities that real-estate professionals and consumers strive in throughout the country than mistreating people by exposing them to unfair practices. I address brokers because the proposed amendments appear to only apply to brokers. My peers who work out of their homes for national direct lenders, who only close in their name through a warehouse line, to fit the minimum standards of a direct lender and later sell the loan off, even before a one mortgage payment is made are exempt from even disclosing yield spread on the HUD-1 at closing. This is because they are employed by those considered direct lenders. They are compensated more for selling higher rates to consumers. Call it yield spread premium or service release premium, its compensation regardless. Why is this not addressed in the amendment, if the goal of the amendment is to provide fairness to all mortgage consumers? Many of these direct shops are one and two person offices whose regulatory oversight is limited to the State the lender is in and rarely any further oversight. My banker peers who do not use yield spread as their compensation as it is all considered service release premium are not effected by this amendment. However when the loan originator sells a higher rate they are compensated accordingly. This practice is well known by the Board and also not addressed in the amendment. "Great leaders are great at simplifying and are those who can cut through the argument, debate and doubt and offer a solution that everybody can understand". Colan Powell " There is always an easy solution to every problem - neat, plausible and wrong".. M.L Mencken I believe the above quotes summarize the potential short-fall these proposed amendments suggest. - How about a solution that everybody understands. Make an amendment to regulation Z stating that no direct or indirect lender maybe compensated more than 3% for any one loan origination. Compensation includes origination, YSP AND Broker fees. For a direct lender it would be lender fees. This suggestion puts ALL mortgage originators on an even par and allows the market to decide who gets the business.

I realize that the compensation cap suggestion is not an American favorite but it sure provides more justice to the system than the elimination of YSP. The amendments suggestion regarding improper steering- who decides what is improper steering ? Currently, I have at least 3 files that are at the # 3 priced lender. This is due to underwriting guideline overlays imposed by the first 2 lenders. The consumers loan would not qualify with those overlays. The one is simply because the home buyer needed a 3 weeks turn-around and we choose the lender who could accommodate the time line. Is this improper steering ? By the way, the difference between # 1 price lender number one and number 3 was .60 bps or 1/8" to rate. Currently, for all three of the above mortgage originations my borrowers signed a good faith estimate and a buyer/broker agreement that specifically detailed how much YSP was being paid by the lender for their loan rate. This all part of the new HUD requirements that we have complied with since the end of last year. There are very few businesses that are required to disclose their compensation or profit margin to clients. I cannot imagine if direct mortgage lenders and bankers and life insurance agents or financial planners were required to disclose their compensation.. My company averages 1.98 % per loan we do annually and we will tell ANYONE who asks. Our target is to 2%. The YSP options are listed below as we show all our consumers.

They were as follows; 5.25% - .50 bps 2.5 YSP % 5% 0 points
1.875 % YSP 4.75% 1 point .875 % YSP 4.5% 2 points 0 % YSP How
is the above an unfair practice ? The 5.25% rate provided the borrower a no
close cost loan which met their financial objective since they are planning on
being in the property only a couple more years. The 4.5% provided a par rate
and the borrower pays the compensation similar to the charges at a bank or any
direct lender. During the refinance season using YSP to pay closing costs was
done at least 30% of the time. It takes a higher rate to accomplish that. I
believe the client sees from above the interplay between the lenders
compensation YSP and the option where they pay? Most prefer the lender pay. The
above template is the same template weather YSP or SRP or whatever its called.
Its all compensation for origination of a new mortgage loan. The proposed
amendments if they provide adequate solutions should apply to all mortgage
lenders, not only brokers or 50% of mortgage originations. Unless the goals are
different than stated. In summary, wholesale regulatory changes have been
adopted and imposed on the mortgage industry. I (CMS) embrace all these
changes. They have and will be wonderful for the long-term integrity of our
industry. The changes include but are not limited to the appraisal process
code, licensing, continuing education requirements and testing for all
originators, very close to the new GFE reporting. The changes along with
stricter underwriting guidelines and a changing business climate have
significantly thinned the ranks of mortgage originators. The mortgage
originators of today have been charged to a higher standard and from everything
I see are ready, willing and able to full compliance. We all agree the above
changes were wise and fair. The Boards apparent choosing to press forward with
new complexities involving multi faceted agreements and remedies instead of
giving the new GFE is chance is difficult to understand. This emergency
preemption might be understandable if there was present evidence that loan
originators were engaged in improper steering, simply to line their pockets,
but in the absence of option ARMS and other exotic products this is not likely.
Its true that the new GFE will not prevent loan originators from selling
higher rates but it does require a 0 % tolerance for all compensation items.
The borrowers will have ample view on both the good faith and again at the
viewing of the HUD to see the compensation. Except for the non broker
originations, these transactions will HAVE no disclosure. (This is the true
shortfall of the new GFE). The Board has not offered evidence that there is
such a need for a rule change that the board can't first measure the impact of
the new GFE. I request the Board place this portion of the proposed rule on
hold until the impact of the new GFE is known. Furthermore, I request that in
its review, the Board reassess the real potential for steering the proposed
rule creates, as well as the negative impacts that would flow from enforcement
through civil liability. Sincerely; John E.Hodgkins