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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:
This is my second post. I have read a majority of responses. I trust that it is occurring to you that you are reading highly consistent responses from greater than 2,000 people. I am an originator at a mortgage banking firm. I used to work a large national bank as an originator, and at one time I worked at the largest mortgage brokerage firm in Santa Clara County that closed 1BB in mortgage volume annually. I am licensed by the California Department of Real Estate. I am also registered with the SEC as an investment advisor representative. My employing company integrates financial advice, planning, mortgage lending and wealth management for Bay Area clients because this is some of the most expensive real estate in the country, which affects clients ability to take care of all of their financial concerns. I have worked in the mortgage industry for 33 years. My colleagues at work are serious minded people working to build uncommon and valuable offers, satisfied clientele and impeccable reputations. There is a fundamental economic principle that you are ignoring in these proposals. It is: People respond to incentives. I am fully aware that you are working to eradicate abusive incentives that have hurt consumers. I sincerely thank you for your efforts in this regard. And, if you set a flat fee or hourly rate for originators, I fear you will automatically shut out various segments of the consumer population faced with needing a mortgage. High-end jumbo loan clients will be affected adversely with flat fee originator compensation. Originators will not be incented to work on larger loans when they can earn more income (to take care of their families, their business expenses, their retirement) by doing more smaller transactions. Those willing to work with jumbo clients will likely be rookies or originators with low skill levels. If you are a lower end borrower and must pay a flat fee, you will be hard-pressed to afford it and come up with the cash because YSP has been abolished. I I've been wondering about traditional practices and cultural norms. By imposing flat fees, no YSP, hourly rate, etc.

you will put in play an enormous shift in traditionally known practices and expectations that consumers have read about, heard about, done and experienced for decades with respect to obtaining mortgages. For example, if what you establish is hourly rate - well, what rate? Will it be allowed to vary at each originator's company? If so, under what criteria and standards? How will this be monitored/overseen? Are you going to limit the # of billable hours per transaction? If so, then some clients will never be served because of the complexity of their situation. Will lending firms be allowed to bill the borrowers for long transaction/planning periods and the work involved for preparing clients - sometimes this takes months - for successful completion of a loan? If it's a very complex file and payment is by the hour, I don't think I would agree to work with any consumer without a binding service contract. Would you? Who will monitor and oversee service contracts if they come into being? Consumers have never had to deal with this kind of structure before. Billing departments will have to be set up at lending companies - new accounting costs, administrative expenses, bad debts (consumers who don't pay and who never close a transaction will have their credit histories adversely affected because the non-payment will be reported to the credit bureaus). Or, will you only allow lenders to collect the hourly fees at loan closing? What if the hourly costs end up exceeding what the compensation would have been under the old system? Seems unlikely, but I'm sure it would happen in some situations. Is anybody on the committee thinking this through?!   These are HUGE, HUGE, HUGE changes.   If you impose flat fees and the elimination of YSP, you will force borrowers to pay cash for working with originators for whom it is now illegal to credit YSP to closing costs on the borrower's behalf. If the flat fees range from a minimum of $1,000 to a maximum of $5,000 (as stated in the proposal), you will automatically incent originators to work on loans for which the loan amount fits the fee. My first post cited the example of a 2MM borrower being underserved, or not served at all, because why would an originator work on this size of loan when they can close 4 500k loans and quadruple their income with a flat fee of $5,000?   The proposals seemingly ignore the concerns of mortgage business owners and focus entirely on originators fees. You write as though the entire flat fee goes to the originator. I doubt it. Loan fees are split with the employing company. Have any studies been done as to whether the employing broker firm can afford to stay in business because they can not receive YSP, and can only share in the flat fee. Or, must the entire flat fee be paid to the originator? How will
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work for the employing firms? How do they make enough to stay in business? This ALL matters to what services will be provided to the consumers who need the mortgages.   If hourly rate, flat fee structures are required for all originators (brokers & banks & mortgage banks), then the banks and mortgage banks still get to earn YSP and SRP and keep it for themselves - undisclosed to the consumer. Brokers will be unduly harmed. If brokers can't survive financially (which many are claiming in their posts), an entire channel for lending will ultimately cease to exist, as well as entire wholesale divisions at major banks (this is where brokers send the loans for underwriting and funding). I do not imply that your proposals should not be implemented because of huge changes. Make change and knock yourselves out. What I am deeply concerned about is what I interpret to be a lack of grounded assessments on what these changes will mean logistically, culturally, pragmatically, economically, etc. I am deeply concerned that these proposals will make it harder and more expensive for consumers to obtain mortgages, instead of protecting them.   Where do mortgage brokers obtain YSP pricing? From banks and mortgage banks. Banks know precisely how much YSP they will pay (carried out to 3 or 4 decimal places) on a loan that is originated by a broker. Banks

also know precisely how much YSP (rebate pricing is another name for it) which the bank will earn on the loans they fund themselves that are originated by their own staff. If you look at internal rate sheets of banks you will clearly see this. Mark Savitt's post includes evidence of this - page 101 of the posts. Mark's examples also show bank SRP percentages for individual transactions. Disclosure rules should be the same for all lending conduits. This would produce increased consumer understanding through uniform disclosure practices. I speculate that YSP is such a hot issue, in part, because brokers must disclose it. Thus, YSP is visible and completely discernable to customers of mortgage brokers. I say that YSP is not a problem for banks and mortgage banks (and, apparently, you - with respect to banks) because they don't have to disclose it and therefore their mortgage customers have no concerns about it - because it literally "doesn't exist" for them. Do not ban YSP, which is a useful and valuable choice and tool for consumers. Make the disclosure rules the same for all lending conduits so that consumers can know precisely what choice they are really making for themselves. This system has worked for decades the way it is, the debacle loan programs of the recent past are gone (keep it that way please), full disclosure is required on income and assets to qualify (keep it that way please), and a large segment of low-barrier-to-entry originators are out (keep it that way please), limits are in place for maximum YSP compensation/fees (keep it that way please). California has banned Option ARMs effective 1/1/10. Option ARMs are one of the stated reasons the Fed wants to constrain/control mortgage broker/originator compensation. That reason no longer exists in CA. Please be sure that when you enact compensation rules that will affect all originators and all home loan borrowers, that you are current on the real situations that exist now. Your proposals will reduce consumer choice (flat fee, hourly rate, no YSP will drive out brokers as a lending resource - and brokers save many transactions that banks turn away), disrupt multiple employment channels (broker firms, entire wholesale lending divisions of banks, broker vendors including title/escrow, credit reporting companies will no longer get orders from brokers), lengthen mortgage transaction times (banks are slow in processing transactions - this will get worse when they end up with all of the transactions). Cause and effect. Logistics matter. A little history on Option ARMS: WAMU, Countrywide and many other banks (not brokers) lowered the starting interest rate on these loans to 1% 5 or 6 years ago, and offered stated income documentation. Those 2 things coupled with the housing boom were trouble in the making. Starting interest rates on Option ARM's were originally 4.95% to 6.95% or higher when they were first introduced in the 80's. Option ARM's were not new programs during the housing boom, and they were not intended for the masses until huge banks wanted market share and offered a 1% teaser rate that lasted for 1 whole month. At one point a few years ago C'wide did 48% of its loan volume in Option ARMS. This was a non-broker, direct lender - the largest mortgage lender in the country at the time. Where were you then? Many other posts have cited reasoning for keeping YSP in place, not going to flat fee, increased costs to consumers, the inability of brokers to compete, etc. I will not restate them here. You have enough to think with, I would surmie. The whole country will be affected by your decisions. I hope your decisions are well considered and wisely made. Ann Timoney