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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:
The Federal Reserve Board has no place regulating the compensation of residential mortgage originators. If there is to be any regulation of compensation it should be considered and administered by HUD. Having said that, there should NOT be an elimination of Yield Spread Premium as a form of compensation to mortgage brokers nor should you force lenders to pay a "flat fee" to originators. There are several reasons that this proposal will not work in the manner in which it is intended. First, the net effect that this proposal will have is to harm the consumer by limiting their financing choices. As the marketplace stands right now, there is an uneven playing field between mortgage brokers and mortgage bankers by virtue of the required disclosure of YSP by brokers and the non-disclosure of YSP or Service Release Premium (SRP) by bankers and banks. Whether a consumer goes to a broker or a banker/bank, both originators can earn compensation both directly from the consumer and indirectly from the lender on the back end of the transaction. This compensation is earned either via YSP when the broker places and funds a loan with a lender or SRP after the loan funds and is sold off the lender's warehouse line or in the secondary market. The ability to earn compensation at the back end of the transaction lowers the costs to consumers. It also allows the originator to use some of that back-end compensation to pay some or all of the consumers costs on a "no points" or "no costs" loan. Eliminating the back-end compensation will only have a net effect of increasing costs to consumers. That "lost" income on the back end will be charged to consumers on the front end. The amount of work that is necessary to originate loans in today's marketplace is twice what it was just two years ago. Some of the most time-consuming loans to originate are for consumers in the lower income portion of the marketplace. This stems from credit related issues, frequent job changes, erratic savings habits, and numerous other situations. If the compensation of the loan originator is left at a flat fee, it can not properly account for the disproportionate amount of time needed to originate some loans. Therefore, you will see originators eliminate the lower income consumer from their market if they can not profit from that business model. Additionally, if we eliminate the back-end (YSP), this will keep even more lower and middle

income consumers from realizing the dream of homeownership by forcing them to pay higher costs out of pocket to obtain financing. In today's mortgage industry, Fannie, Freddie, FHA and VA have already placed limits on total compensation to originators to eliminate usurious charges to consumers. By placing this limit on total compensation it allows the originator to still earn a "fair" compensation while working with low-income consumers who are looking for loans in the $30,000 - 60,000 range and the flexibility to price the loans according to the amount of work required to originate the loan. Why add an additional regulation to a system that has already corrected the problem of charging borrowers an "unfair" amount? Also, any attorney or CPA or other professional or service business sets his or her compensation according to the amount of time invested on behalf of the consumer. Why is the mortgage business treated differently? The other unintended consequence of this proposal would be to effectively eliminate the mortgage broker as a viable option for consumers to obtain financing from. Mortgage brokers have increased competition and lowered costs for consumers for many years. If this proposal becomes a regulation, you will see most, if not all, mortgage brokers be forced to go to work for a mortgage banker to keep the ability to earn back-end compensation (SRP) so that they may continue to compete in the marketplace or they will leave the industry altogether. This only reduces competition and will always result in higher costs. Additionally, it forces all loan originations to move to a less transparent platform where a large portion of the originator's compensation goes unknown to the consumer because bankers and banks do not have to disclose their back-end compensation. How does less transparency equal better results for the consumer? At no time in the history of our free-enterprise economy has reduced competition resulted in lower costs to the consumer. Nor will the lack of transparency enjoyed by mortgage bankers and banks result in lower costs to the consumer. You must realize that the compensation methods available to mortgage brokers have had nothing to do with the mess our industry has made of itself. More transparency in the disclosure of compensation and how a mortgage product works that would serve to properly inform consumers is the best way to allow them to shop and obtain the best deal for themselves. You can not give in to the big banks' efforts to wipe out the broker industry and achieve their monopolies. What seems to be missing in the government's efforts to clean up the industry and avoid this catastrophe again is any effort to more closely monitor Wall Street's products, ratings agencies, and accounting practices. You do not solve the problem by lending investment bankers money at next to no cost so that they can go back out and created flawed products to sell to consumers, pay ratings agencies to give a AAA rating to a junk product, then leverage themselves with risky, unregulated derivatives and credit default swaps on products that are inherently flawed and then hide their activities with shady accounting. This proposal is a direct attack on small businesses (most mortgage brokers) and will not achieve the desired objectives. In fact, it will serve to further obfuscate loan originators' compensation by forcing them to jump ship to the banks that don't have to tell what they make and further eliminate competition and directly increase costs to the consumer. Especially now, this is not what our economy needs to move forward to recovery.