The changes proposed to Regulation Z by Section 226.36(d), Prohibited Payments to Loan Originators will negatively impact consumers through the reduction of choice and through the unnecessary restriction on options they would otherwise enjoy which would allow them to manage the various costs associated with obtaining or refinancing a mortgage.

The Board specifically seeks comment (Federal Register page 43245) about *"alternatives to the proposal that would further the purposes of TILA and provide consumers with more useful disclosures"* . In that regard, submitted with this comment is a position statement and proposed one page addendum, which if used in conjunction with the detail information presently contained on the Good Faith Estimate (before the HUD Regulation X changes) will much more directly "further the purposes of TILA and provide consumers with more useful disclosures."

As the position statement explains the misunderstanding that resulted in the carve out of what is commonly referred to as Yield Spread Premium has taken the mortgage disclosures in a direction that fails to further the purposes of TILA and confuses the real issue while making comparison shopping much more difficult.

By applying the very straightforward recommendations in the position statement and by using the shopping tool in conjunction with information that is already generally available, the Board could add tremendous value to the Regulation Z changes without the negative consumer and business impact implied by the current proposed changes.

Thank you for reviewing the explanation and suggested changes. Please seriously consider them. They represent a "real" consumer oriented alternative that will achieve the Board's and TILA's objectives.

IMMAAG

Impact Mortgage Management Advocacy & Advisory Group

Position Statement
The Yield Spread Premium Myth & Solution

It is the position of **IMPACT Mortgage Management Advocacy & Advisory Group (IMMAAG)** that the term "Yield Spread Premium", thrust into the mortgage industry taxonomy over 17 years ago, is a misnomer. The term has caused so much debate and effort in the name of clarification and transparency, that we have collectively lost focus on the real issue – to make it easier for consumers to effectively comparison shop and to make informed decisions.

The misconception that created the acronym "YSP" has given rise to disclosures which now obscure rather than illuminate and confuse rather than clarify. Studies cited by the Federal Reserve Board (FRB) and other governmental agencies have demonstrated that the current disclosures do not achieve their objectives with respect to improving the consumer's comparative shopping experience. The result of the flawed idea about "YSP" has led to a new Good Faith Estimate being implemented January 1, 2010 which will hurt consumers by reducing rather than increasing transparency and reducing choice while it hurts mortgage loan originators by forcing estimates that will necessarily be higher and will disserve the very goal of accurate estimating.

The FRB has proposed changes to Regulation Z. Some of the changes are also based on the long standing misconception that a "premium" or "discount" value assigned to one interest rate versus another represents a "kickback" or "rebate", instead of simply the calculated present value of the expected future revenue generated by the asset. The changes resulting from the flawed idea that created the term "YSP" have led to proposed compensation changes that will have a negative impact on both consumers and loan originators.

Further, the continued focus on how lenders choose to use the revenue generated from their mortgage loans only distracts from the important issues of competitive pricing and consumer protection, while it sabotages the intended goal of creating disclosures which allow simple, clear consumer loan comparison shopping.

The Yield Spread Premium Misconception

Loans are offered to consumers for the simple reason that they are revenue producing assets. The revenue produced by the combination of closing costs and the interest payments is used to pay for the costs associated with mortgage sourcing, marketing, origination, and servicing processes; including collection, credit risk management and of course, some amount of profit. Regardless of whether the lender or a third party performs any or all of these functions, the consumer ultimately bears these costs either on the front end or through the interest paid over the life of the loan. This simple fact has been lost in the unproductive debate about the artificially created and carved out item called Yield Spread Premium.

With the emergence of independent mortgage brokers and originators, lenders gained access to a large, efficient and competitive variable expense based third party distribution channel to market and originate the lenders' loan products. In response, lenders created "rate sheets" which are functionally similar to any other product manufacturer's price sheets. The rate sheets facilitate the lenders' need to communicate the amount they are willing to pay the third party for the performance of its services based on the revenue the lender expects to receive from the loan at any given price. In this case the lender's price is represented in the interest rate. In its simplest form, the consumer pays the lender in some combination of front end costs plus interest and the lender must pay for all expenses associated with marketing, originating and servicing from those consumer payments. While it goes without saying that if the lender receives more revenue, e.g. from a higher interest rate, everything else being equal that loan offers more value and the lender may reward the originator for that value in the form of a higher payment for the services provided. That in no way "hides" anything from the borrower that facilitates comparison shopping.

Referring to this lender payment for services rendered as "indirect compensation" as has been done previously and as continues in the FRB proposed changes to Regulation Z is a misnomer. Rather, it is simply a payment made by someone other than the consumer for services rendered during the loan process or when the asset or its servicing is sold to the secondary markets. Whether it is called "Yield Spread Premium" which represents lender compensation to a third party for services rendered through the origination and funding of the loan, or "Service Release Premium" which represents the secondary market's calculated present value of the future revenue flow negotiated for purchasing either the asset or the servicing rights; disclosing the amount of such so-called "indirect compensation" provides no relevant additional information to improve the consumer's ability to comparison shop.

Employing a cost effective third party marketing and origination function, instead of building and maintaining this capability internally, is simply a lender's business decision. Restricting the lender's ability to decide whether to "build" or "buy" services will damage lender access to a valuable alternative distribution channel, will result in an overall reduction in competition, will drive a derivative increase in consumer front end costs and will create access issues for home buyers and homeowners attempting to refinance.

The August 26, 2009 proposed changes to Regulation Z demonstrate a fundamental misunderstanding of the overall loan pricing dynamic. It is ironic that while the Board expresses its concern, *". . . that creditor payments to mortgage brokers are not transparent to consumers . . ."* it suggests that it has no issue with lenders globally increasing their interest rates. This allowable increase requires no justification or transparency, yet if used would represent an increase in the largest component of consumer costs without any required disclosure except that, if a loan originator is compensated that portion paid to the originator must be disclosed. If the originator is an employee this amount may never be disclosed even if the increased rate results in a higher premium payment to the lender when the loan is pooled and/or sold.

All lender and originator compensation is included in the front end costs and in the periodic loan payments derived from the stated interest rate. The interest rate is disclosed to the borrower. Further disclosure of the portion of the lender's revenue used to pay for services rendered is irrelevant to the consumer's ability to comparison shop.

IMMAAG suggests that the Board would better serve consumers and the objectives of Regulation Z by abandoning the unproductive debate about "indirect compensation" and instead, by directing their effort to working with HUD to integrate the requirements of Regulation X to produce one set of disclosures that are easily understood and useful to consumers. Both agencies' efforts must be turned to a simplified consumer disclosure that allows for an informed consumer shopping experience based on relevant product and financial information.

IMMAAG's Proposed Solution

IMMAAG offers the idea that a one page addendum to the existing (pre-January 2010) Good Faith Estimate that will resolve the issues related to comparison shopping with out the side effects inherent in the newly mandated GFE and without the inappropriate restriction on the market freedom to decide on its own how services should be compensated. The **IMMAAG** solution overcomes the problems created by the misconception detailed in our position statement. We offer a document that delivers a simple, useable attachment for the consumer to compare alternative loan program prices.

If the real objective is to enable competitive, cost-based comparative shopping for the consumer, there are only two costs necessary to evaluate:

First, is the front end cost associated with obtaining the loan,

Second, is the interest rate and its derivative debt service cost over a particular period of time. (APR, in the context of mortgage loans, lost its usefulness in the 1970's when "discount" loans ceased to exist.)

Nothing else is needed for a consumer to compare prices. To the extent that consumers decide which mortgage product meets their needs based on price, all of the other ostensibly "transparent" fully disclosed financial aspects of the transaction are moot.

If one lender offers a $250,000; 30 year fixed rate mortgage with total closing costs of $5,000 at an interest rate of 5.00% and another offers the same mortgage with total closing costs of $4000 at the same 5.00% rate, it does not require disclosures of originator compensation or APR to determine which loan "costs" less over any chosen time frame. Given the absolute front end costs, and the monthly payment derived from the loan terms, all the consumer needs to accurately compare and "shop" these loans is the element of time.

IMMAAG's proposed disclosure when combined with the details contained on the current Good Faith Estimate can be used by anyone to evaluate the cost aspect of the shopping experience. When the concept is adopted, the proposed disclosure will certainly need to be modified for form.

Conclusion

In conclusion, it is the **IMMAAG's** opinion that if HUD and the Board fail to acknowledge and act on correcting the on-going misconception of "YSP" and "indirect compensation", the disclosure solutions being forced on consumers and the industry will only continue to cause confusion and added consumer expense while interfering with developing a meaningful solution to the comparison shopping problem and to informed borrower decision making.

IMMAAG's position is that HUD should delay the January 1, 2010 implementation of the new GFE and HUD 1/1-A changes and work with the FRB as the they consider their Regulation Z changes proposed on August 26, 2009, with the objective to produce a simplified, integrated disclosure that facilitates the spirit and combined goals of both Regulation X and Regulation Z.

Respectfully,

William F. Kidwell, Jr.
President, IMMAAG, LLC

Comparison Shopping Disclosure Example

As indicated in the position statement, a consumer can easily comparison shop when the interest rates are the same and only the front end costs differ.

If the interest rates and costs being compared are different or if costs such as mortgage insurance or prepayment penalties are included in the loans, the consumer needs more information.

By using a table such as the one offered below, these varying loan characteristics may be presented in a very simple, easy to understand format to use to comparison shop.

IMPACT Mortgage Management Advocacy and Advisory Group (IMMAAG)
offers the following disclosure as a simplified mortgage loan comparison shopping tool.

By simply modifying Regulation X to require inclusion of the interest rate and by making this disclosure an addendum to the detail provided on the existing GFE the consumer can identify the total cost of (cash used) for alternative loan programs. For the purpose of the comparison, "cost" is defined as cash used to support the acquisition and payment of the loan.

Total Loan Amount $250,000

Term 360 Months	Loan 1	Loan 2
Interest Rate	5.00%	5.63%
P&I Payments	$1,342.05	$1,439.14
Front End Closing Costs		
Origination Fee	$2,500	$0
Broker Fee	$790	$0
Lender Fees	$1,000	$0
Title Fees	$950	$0
Total Front End Closing Costs	$5,240	$0

Combined Cost to Borrower		Loan 1	Loan 2
Total Cash Used -	36 mos	$53,554	$51,809
Point of Indifference -	54 mos	$77,711	$77,714
Total Cash Used -	60 mos	$85,763	$86,348
Total Cash Used -	120 mos	$166,286	$172,696
Total Cash Used -	240 mos	$327,332	$345,394
Total Cash Used -	360 mos	$488,378	$518,090