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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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Regulation Z-Truth in Lending-Closed-end Mortgages [R-1366] Tuesday, December 22, 2009 Board of Governors of the Federal Reserve System Ben S. Bernanke Donald L. Kohn Kevin M. Warsh Elizabeth A. Duke Daniel K. Tarullo Distinguished Members of the Board of Governors: The Minnesota Mortgage Association (MMA) is the only mortgage association in the state of Minnesota representing mortgage bankers, brokers, lenders, and affilliated oganizations. The MMA is a member-governed association dedicated to integrity and professionalism in the mortgage industry through education and consumer advocacy. By requiring a strict code of ethics for our membership, we are vigilant in our efforts to protect the consumer in every mortgage transaction. The MMA supports the goal of the Federal Reserve in its efforts to clarify disclosure and provide a fair, uncomplicated system for consumers to shop, understand, and complete a fair and equitable mortgage transaction in the marketplace. Additionally, we support the effort to eliminate the "steering" of consumers into a product or loan structure that may be improper for them and chosen solely for the opportunity at more profitability for the bank, broker, or originator. We believe that any regulatory changes must be in the best interest of American consumers to be effective and sustainable. In an effort to be concise, our comment on the proposed rule change for Reg Z will be limited to the issue of originator compensation and the impact on consumers and the mortgage lending industry. Scope of Comment: We acknowledge and commend the research performed prior to presenting the proposed rule change for comment. However, the MMA feels the impacts and consequences of other recent regulatory reforms, identified below, need more comprehensive consideration before changes to originator compensation are incorporated into Reg Z. The Mortgage Disclosure Improvement Act (MDIA), effective in July 2009, protects a consumer against loan steering by requiring lenders to adhere to a seven business day waiting period, once the initial disclosure is provided, before closing a home loan. Additionally, MDIA protects consumers from High Priced Mortgage Loans (HPML) by imposing a ceiling for the APR of ½% or less relative to the APOR (Average Prime Offered Rate) currently present in the market at the time of placement of the mortgage loan.

The Home Ownership and Equity Protection Act (HOEPA) changes, which took effect in October 2009, restrict abusive mortgage lending and advertising practices and require certain mortgage terms be disclosed earlier in the transaction. HOEPA, along with FNMA and FHLMC, have also implemented new rules and fee restrictions that limit compensation which effectively applies to all mortgage lenders - not just those supervised and examined by the Federal Reserve. The Real Estate Settlement Procedures Act (RESPA), changing on Jan. 1, 2010, will require lenders and mortgage brokers to provide consumers with a standardized Good Faith Estimate (GFE) that clearly discloses key loan terms and closing costs. Closing agents also must also provide borrowers a new HUD-1 Settlement Statement that clearly compares consumers' final and estimated costs. Under these new RESPA provisions, consumers are provided more comprehensive disclosure and are protected from lenders changing loan terms and conditions; if the disclosed charges on the HUD-1 exceed prescribed tolerances compared to the charges disclosed on the GFE, they are disallowed. The Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) effective in 2010, enhances consumer protection and reduces fraud by requiring originators to complete initial and continuing education courses to pass a test and to undergo civil, criminal and financial background checks. It also establishes a Nationwide Mortgage Licensing System and Registry (NMLSR) to provide consumers with a resource for researching their originator's lending reputation. MMA Comment on Proposed Rule Changes to Reg Z In addition to the abovementioned efforts, the entire financial services industry is on the cusp of extensive efforts to realign behavior that is more consumer-centric. Pending legislative efforts, aimed at creating the Consumer Protection Finance Agency, provide comprehensive safeguards over-and-above already implemented actions. 2009 has also seen unprecedented transformation in our secondary markets. Consumers and home mortgage providers now participate in a less risky lending environment. A return to more conservative underwriting, enhanced quality controls/integrity checks, and the elimination of home mortgage products, largely responsible for the current crisis, have produced a more stable and secure home mortgage market. The MMA strongly urges the Fed to postpone any recommendations or changes to Reg Z, in the area of originator compensation, until all of the impacts can be quanified. The MMA agrees with Fed Chair Ben Bernanke's quote that it is important ".to protect consumers from unfair or deceptive acts and practices in mortgage lending, while keeping credit available to qualified borrowers and supporting sustainable homeownership." The MMA feels, however, that additional restrictions to loan originator compensation would fundamentally change the mortgage industry - and consequently the economy as a whole. We believe the proposed rule to change originator compensation would result in the following: Tilting the balance of competition to only the largest companies within the mortgage industry Through the dramatic reduction in competition - .limiting credit and credit options to consumers thereby increasing the cost of credit Toppling an already fragile real estate market. Creating additional significant banking and mortgage industry unemployment Threaten a banking and financial services sector of the economy that relies on real estate finance as part of a successful business model and forcing mortgage loan providers at all delivery channels out of business The current compensation structure for loan orginators is a long tested model which has predominatley benefited the consumer and the orginator in that the orginator is only compensated via the successful and timely completion of a satisfactory mortgage transaction. While we acknowledge that rogue lenders have abused their position of trust with a relatively small number of consumers, the vast majority of mortgage transactions are compliant and satisfactory to the consumer. Summary It is the sincere belief of the MMA that additional restriction, curtailment, or elimination of compensation based on the terms and structure of a mortgage loan would not be prudent. We feel the recommendation for changes to originator compensation is being made without comprehensively analyzing the pending impact of the aforementioned regulatory reforms. As a result, the MMA opposes implementation of this component of the proposed rule change to Reg Z. The MMA values the relationship it has with the Federal Reserve, and looks forward to participating and cooprating where needed on any further study of the compensation issue. On behalf of our diverse membership, we thank you for considering our comments on this very important issue. Respectfully, Patrick Martyn MMA Executive Director On Behalf of the Board of Directors of the MMA 5200 Willson Road Suite 300 Edina,55424