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Subject: Regulation Z -- Truth in Lending

Comments:

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From: Kenneth W. Lehman Subject: Regulation Z - Truth in Lending Comments: I am writing concerning the interim final rule Section 129E of the Truth in Lending Act (TILA), which was enacted on July 21, 2010, as Section 1472 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As a Certified Residential Appraiser, I have witness the rise of the Appraisal Management Company (AMCs). It was the AMCs that were known to hire inexperienced or less than professional appraisers on their rosters (forcing lower fees for the inexperienced). The young and inexperienced appraisers attempting to establish themselves flocked to the AMCs to gain experience. Once their resumes were flushed out, the now experienced appraiser began the quest for acceptance on local or region Bank lists' of Approved Appraisers. This was the typical career path that existed when I entered the profession. Then HVCC was forced upon this profession. I watched as seasoned appraiser after season appraiser folded shop or simply laid-off employees and retreated to the home office. The crying from the AMCs is directly tied to their pending loss of profit margin. Has nothing to do with anything else. The appraiser's on the other hand, this too is about profit margins, but more importantly is about a profession that is on the verge of extinction. The requirements that have been set forth to train and mentor an individual to become an appraiser is equivalent to those of Engineers and Architects with the internship periods required for plumbers, electricians and even doctors. This coupled with most lenders and AMC will no longer accept or allow interns to sign or in some cases participant in the formation of the opinion of value, the profession is headed down a very dangerous path. This path will lead to very few remaining appraisers as the current average age of an appraiser within the United States is 50-60 years old. This regulation is a step in the right direction. Reviews of several of the comments submitted in response to this comment period appear to focus on fees and why appraisers should continue to work at the beckon call of the AMC without "Customary and Reasonable Fees". It is noted that several of the AMCs are attempting to discredit the VA's Fee List. I can assure you that the VA Fee List is slightly under what is "Customary and Reasonable Fees" for the standard

Uniform Residential Appraisal Report (URAR) Form (Fannie Mae 1004/Freddie Mac 70). The normal VA report is for single family homes that are routinely valued less than the typical VA threshold (\$417k). Their fee list does not account for "Complex" style reports (normally seen as waterfront, view, large acreage or custom construction). When facing a report that is complex in nature, VA does allow negotiations on fees to occur. By no shape or form, does the VA Fee List establish the highest fee in the market as suggested by many of the responses to this regulation from AMCs. I work for a regional bank and my fees for the standard URAR are 10% higher than the fee paid by VA. It has been that way for years. For a standard report, it routinely takes me 8-10 hours, start to finish. With AMCs attempting to pay \$175-\$325 per report, it is not viable for my business to remain. The VA fee structure and that which I receive through the Regional Bank at \$500-\$550 is viable. It however it is not even close to what the typical Plumber, Electrician, Engineer, Architect, or Lawyer makes per hour to remain in business. The HVCC in conjunction with AMCs has placed "price controls" on the profession. As stated by Joan N. Trice, Collateral Risk Network, "There are arguments to be made that market forces are at work and current fees are just supply and demand in motion. Many would concur that there is indeed an oversupply of appraisers. There is not an oversupply of competent appraisers. The balance of power is surely in the hands of lenders and AMC's who control the business channels. And unfortunately price has been the primary factor in appraiser selection. It would go a long way to have an explicit statement-- "lenders shall pay for the services of an AMC. Appraisers shall receive 100% of the appraisal fee collected from the borrower." Those explicit instructions would close the loopholes in the reasonable and customary debate." I concur with her input and recommendation in this area. Pertaining to the portion of the regulation that allows withholding of fees if an appraiser fails to meet its "Contractual obligations," it appears that inserting this into "contract law" is not appropriate. The appraiser should be paid. If the lender or AMC believes that a breach of contract has occurred, laws already exist that address this issues such as Small Claims Court. Other appraisers I have spoken with have been withheld payment on grounds of contractual violations, but the appraisal was compliant, accurate, and properly completed. Contrats should not force an appraiser to take shortcuts or perform in a less than due diligence manner which this language may cause to happen, especially when AMCs look to hire only the cheapest and fastest appraiser regardless of quality. There are already legal remedies in place in most, if not all, states that allow for contract dispute resolution including some specifically addressing AMCs. There is no need for federal guidelines or law to be specifically stated in this manner. Simply leave it at the state level. Speaking of state level, all of this (mortgage meltdown, this regulation, etc) could have been avoided completely if the states were to operate a rotational roster for all mortgage appraisals similar to the VA system. This could have been the simplest and most inexpensive way possible and would have fixed many of the same problems that will exist after this regulation is imposed. Sincerely, Kenneth W. Lehman Certified Residential Appraiser