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Subject: Reg Z - Truth in Lending

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Comments:

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Proposal: Regulation Z - Truth in Lending - Closed-end Mortgages
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Basic Arguments and Appeal to the Fed regarding YSP: 1) It is a bad idea to remove the ability to earn YSP through the normal course of mortgage business dealings. 2) Its unfair and inequitable to multiple parties. 3) Its seemingly unconstitutional as it singles out one group while ignoring the exact same practices by others. 4) It is economically irresponsible for the country, for countless scores of thousands of employees and employers, for millions HOMEOWNERS, and to adjacent commerce that are either directly and indirectly dependant upon consumers having multiple avenues of residential mortgage financing. Request: For sake of so many people - including but not limited to: consumers, mortgage brokers, mortgage originators, real estate brokers, real estate agents, contractors, carpenters, state regulators, underserved neighborhoods, folks with irregular circumstances, and suppliers of al the aforementioned - kindly strike this YSP ending language and adopt an actual fair and equitable approach as is outlined below. Introduction: The main topic of this letter is to address the Fed's underlying assumptions listed in R-1366 regarding payment of YSP to licensed mortgage brokers/originators; and the Fed' s assertion that this causes harm to consumers. I will herein testify and show that much of the Fed's logic used as reasoning to do away with YSP is mainly conjecture with the exception of "inducements". Receiving YSP, in one form or another, is and always has been an industry wide practice. Banks, Credit Unions, Mortgage Banks and other savings or thrift institutions all receive YSP in one for or another. However, we mortgage brokers are the only ones required to disclose our YSP to the consumer. Yet still, the notion that "licensed" persons and entities being induced to basically rip off consumers is an entirely valid concern which only requires the simplest tweak, not eradication. It's great that this issue has finally made it to a national and public forum. However, I fear that this has become a YSP witch hunt that will hurt hard working LICENSED professionals and consumers alike. I am hopeful

that the Fed will see the straightforwardness of the below mentioned remedy then simply adopt and apply it nationally and across the board! Just limit how much total compensation a broker can receive on a per loan basis. Our wholesale channels will have no problem applying these standards as they review all transactions prior to releasing closing documents anyway. And don't just take my word for it. Please feel free to call upon any wholesale mortgage lender that uses mortgage brokers as an avenue to aquire business. Ask them if their closing departments apply the 5% rule and "High Cost" standards prior to releasing closing documents for consumption. My point here is that the mechanisms are already in place and working quite well. My recommendations are this: 1. Loan amounts of 300,000 and over are limited to 4.00%. The rule in most states is 5.00%. 2. Loan amounts between 175,000 and 299,999 would be limited to 4.00% 3. Loan amounts under 175,000 would be limited to no more than 6.00%. Keep in mind that a real estate sale costs the seller 6.00% of the purchase price whereas I'm only referring t yhe actual loan amount. We in the mortgage industry would then still be free to offer to borrowers the use of YSP to keep their fees down which in turn keeps their mortgage debt down. If you eliminate YSP then all compensation will have to come from the borrowers directly thus causing those with lesser savings to be out of the home buying arena and those with shrinking equity out of luck as well. This would be a big unintended consequence wouldn't it? A brief overview of the process and the issues at hand: Wholesale lenders engage independent mortgage brokers in order to take the very costly efforts of mortgage "originations" of their hands. For this they start with an already discounted rate of interest, aka a "par rate". That a mortgage broker then takes this discounted wholesaler's rate and adds an eighth or five eighths is no different than any other small business marking-up for their products or services. Car dealers, grocery stores, convenience stores, the gas pump, home builders, every shop you see at any American mall large or small, national retailers, online book sellers, ATM machines, my local butcher, and everyone else who does business, is allowed to buy at wholesale and sell at retail!!!! Doesn't the Fed realize that a par interest rate is below the norm because the wholesaler doesn't bear the costs of originating each mortgage transaction thus brokers get to resell at a retail rate which is right in line with what the market as a whole has to offer? Doesn't the Fed know that it's really hard work and stressful and that if brokers aren't able to survive then all the harder transactions will fall by the wayside and that hurts good people far more than a smal increase to an interest rate that the consumers don't have access to in the first place? Doesn't the Fed understand that real people live week to week or month to month or at best in rare situations year to year? So why would the Fed ever rely on misleading statistics like how much one quarter of one percent in rate could cost the consumer over the course of 30 years!? It's disingenuous because nobody lives in terms of 30 year increments. We live in weekly and monthly increments. Let's use an example. John and Sue Smith take a 200,000 loan amount at a 5.00% rate of interest and this is assuming that there is no YSP, i.e. 5.00% is a "par rate" in this example. The Smith's total mortgage payment including taxes, insurance, and PMI is approximately $1,493 per month. That same scenario with an interest rate of 5.25% is $1,523 per month. Yet, because the 5.25% rate delivers YSP the broker the consumer now pays 1-1.25% less in origination points out of their own pocket. So, for a $30 difference in payment the Smith's saved $2,000 that they didn't have to pull out of pocket. Now that 30 dollar difference vs the $2,000 they didn't pay would take 67 months to recover. Only if they stay in that home for longer does the $30 per month start to exceed the initial 2,000 and do the Smith's care - NO! Why, because they'd have to literally put that money away each month in order to prove that it has been saved otherwise it's a disingenuous exercise in number counting that does not benefit the consumer in ANY substantive way and all because of a discussion over mortgage rates that are not offered to the public in the first place. Did you all at the Fed know any of this or take any of this information into account? Conversely, if the Smith's don't have the option they they'll just have to suffer the outlay of extra cash to buy their home at a time when most folks don't have any extra money to use. Why, because they are buying a house and it takes a lot of money already just to undertake the endeavor of buying in the first place. The only class of people for whom the use of YSP wouldn't matter to is the already wealthy. Everyone else would just have to suffer and how does that help regular people or this housing crisis? Again, don't take my word for it. Look at any wholesale rate sheet and you'll see that what I'm testifying to is right on track. YSP is at best an innocuous issue as long as a few simple rules are adopted. The Solution: As mentioned above, we need only limit the overall earnings from any one loan transaction to a simple 4-6% depending on loan size. This way the originator can use the tools of YSP to decrease or pay for fees to lower burdens on borrowers without much money and act just the opposite for borrowers with more assets at their disposal. Setting Simple Hard Caps on broker earnings on a per loan basis de-incentivizes predatory activities and keeps those who are just in it for the money away. Did the fed or the committee drafting this section of the document stop at all to think about all of us originators and brokers whose clients love them for getting them out of a jam or taking all the extra steps needed when a client didn't fit the perfect mold? I personally know hundreds of people that would not be in a home or save a bunch of money each month had an originator not gone the distance. There are too many of us and others employed by us to simply take YSP off the table. Other observations: I've addressed items 1 and 2 listed above, under basic arguments. Item 3 - the constitutionality needs further looking onto. Does it seem fair to single out one group for what is in effect a punitive measure while at the same time allowing others to continue conducting the exact same practices within the same mortgage related industry? YSP is only labeled YSP for mortgage brokers, who by the way are the only ones that get paid moneys from a mortgage closing. Originators do not get paid until the licensed broker accounts for said moneys and then complies a loan file prior to paying a commission, bonus or wage to an originator who is an employee of the licensed mortgage broker. The answer is no its not fair, yet that's exactly what is being recommended. Take your local brick-n-mortar savings bank for instance. They too issue a rate to a consumer that has built into it a servicing premium or YSP of some sort otherwise they'd make no money for doing the work of originating a mortgage loan. At any one time your local savings bank will rely on the secondary markets for capitol so that said savings bank can continue to lend. In doing so they too will receive a wholesale interest rate; then turn around and offer a higher retail rate to their consumer. There is nothing wrong with this practice. In fact it's the very reason that mortgage brokers and savings banks compete very closely on good credit high down payment borrowers and no one party wins overwhelmingly over the otherbecause a mortgage broker can and do have access to rates and terms that the savings banks do and thus the rates and terms are similar. Yet, the local bank is not required to even disclose their profits on any mortgage transaction but brokers are. Does the Fed somehow think that just because the word "Bank" is in their name that they too don't make profits by buying at wholesale and selling at retail? The same hoolds true for the biig national mortgage bankers. Wells Fargo has a set margin over which they sell rates upon based on the deals they work out with their investors which include FNMA and FHLMC. It seems patently unfair and unconstitutional to single out only the mortgage broker. Item 4 - does the abolishment of YSP for brokers make economic sense? NO! we serve too

many people that do get turned down by the local banks and credit unions. Why, because no one else will. Did any one at the Fed ask any mortgage brokers to supply a list of names of the millions of consumers that had nothing but thanks for the efforts of their mortgage broker and their loan originator? If you had you'd see that there's a whole segment of the population that can't refinance or purchase unless someone like me takes the time to get them set up for financing. I and others like me do so by reviewing credit, abstaining explanations, making sense of extenuating circumstanses and so forth. So now we END YSP, but only for brokers, and put tens of thousands more good people out of work wile at the same time we lessen the country's ability to sell the over stock of housing inventory and all because the Fed thinks YSP is the culprit. The Fed's argument of steering folks into "expensive" products is a plain non-truth! It proves that someone didn't do enough interviewing and/or homework. How many mortgage brokers did you interview anyway? There are no products that can be steered to that are more expensive. Every single loan type is a Fully documented loan file with proven income,
assets and an appraisal. Furthermore, has the Fed looked into the pricing on the wholesale mortgage banks rate sheets that are issued to us mortgage brokers? If you did you'd see that the only loan type that is incentivized is the 30yr, 20yr, and 15yr FIXED RATE PRODUCTS. The A.R.M.s don't compete and there are no more stated income, or no ratio, or no doc, or COSI option arms that can negatively amortize. Thus the arguments put forth by the Fed in 1366 that they are left with no alternitave but to do away with YSP is not true or accurate. Appraised values are not inflated and lenders ALL have second and third level appraisal reviews. It's called a 'Desk review" and they are common if the underwriter after conducting their own review feels it is necessary. So the notion that there s no other way is just plain silly. There is other nonsense language and information in 1366 such as the statement that the 2007 consumer testing and "other" data received revieled that the broker copm form being suggested would be too confusing and thus was abandoned while at the same time there are supposed observations by the Fed that turn around and actually rely on "consumer testing". Yes, consumers can become confused by all the paperwork contained in a mortgage application thus one simple form that says what the fees are and how much the Broker is getting paid is a good idea. In fact, it already exists and it's called a Good Faith Estimate (GFE). It's way more informative than the TIL as it relates to ho much does the broker get paid and how much is this all costing you the consumer. I'm sorry but the dialog I just reviewed in R-1366 is not comprehensive and draws week conclusions based on what appears to be scattered data at best. Again I emphasize the KISS rule. Keep everyone working. Level the playing field by making everyone disclose YSP or their equivalent thereto. Adopt some or all of the recommendations listed above. Understand that there basically are no more "Risky" loans. And yes do have a simplified form for consumers to have. And understand that concluding that YSP should be ended but only for mortgage brokers is outrageous!