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Comments:

Public Comments on Truth in Lending:

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To whom it may concern;

This letter is in response to the Federal Reserve?s proposed revisions to Regulation Z. The intention of this change as I understand it is to eliminate all payments to loan originators that are based on the terms and conditions of the loan. Specifically this relates to the payment of YSP.

Since 2002, mortgage brokers have been under attack on this issue. Frankly, I really have a hard time understanding how the curtailment or elimination of YSP is supposed to be in the consumer?s best interest. Now that the new Good Faith Estimate is being released on January 1st, it is especially perplexing why this is still being pursued by the board. Specifically, mortgage brokers now have to credit back any YSP to the borrower, so the borrowers have a wonderful tool now to compare apples to apples and have a clear understanding of the real cost of the mortgage and originator compensation.

The elimination or curtailment of YSP will hurt the consumer in numerous ways. First and foremost, it takes away a vital consumer choice. Let me give you some examples

1) New home purchase. Price of the home is 200,000. Client wants to put down 20% to avoid having to pay PMI. So they would have a $160,000 loan, $40,000 down payment. Closing costs are say $5,000 (which includes a 1% origination fee for the originator) and escrow setup (prepaids) is another $2,500. Seller won?t agree to pay any closing costs. The customer has $50,000 in the bank. They need $47,500 for closing but the lender requires that they have 2 months of reserves in the bank. Payments are $1,750 so that would require an additional $3,500 leaving them needing $51,000. A simple way to solve this problem would be for the originator to offer them a slightly higher rate in exchange for the

elimination of the origination charge. The originator would get paid by the lender in the form of YSP and the client would have his/her closing costs reduced by $1,600 allowing them to complete the transaction without having to pay Private Mortgage insurance (which would have added an extra $120 per month to their payment). Without the choice the consumer would have paid a considerable amount more over the term of the loan.
2) First time homebuyer doing a FHA loan putting 3.5% down. (again 200,000 purchase price with a loan amount of $193,000) All they have is enough money for the down payment which is $7,000. They are relying on their real estate agent to get the seller to pay for all the closing costs and escrow setup. Closing costs are $5,500 (which includes a $1930 origination fee) with prepaids adding another $2,500 for a total of $8,000 that the seller needs to pay. The agent is able to get the seller to pay $6,000 max. If the originator had the flexibility to collect YSP in this case, he/she could offer to increase the rate slightly and eliminate the origination fee so the sale could be completed as contemplated. If YSP is curtailed or eliminated, this deal would most likely fall apart. How does this help the consumer?

The argument goes that the consumer is taking a higher rate that will cost them more in the long run. While this is possibly true, there are several cases where it wouldn?t be. Consider the following:

1) If the borrower is in the home for a short period of time, they are often better off not paying the origination fee to secure a lower rate. For example, in order for the borrower to not pay an origination fee, they would have had to accept a ?% higher interest rate in this example. That would have cost them $23 more in their payment each month. So it is costing this borrower $1,930 in order to save $23 per month. If you divide $23 into $1,930 you will see that the borrower would have to live in his house for 83 months (almost 7 years) just to recoup the money they spent on this origination fee. Most people cannot confidently predict that they will live in a house for 7 years so very rarely is it in the consumers best interest to pay this fee out of there own pocket. But the point is that it should be there choice.
2) If they can?t move in the house in this example because they didn?t have the money (because they couldn?t take a higher rate in exchange for the elimination of the origination charge), they would not have had the benefit of home ownership and the interest deduction that goes along with it. The benefit of this interest deduction is different for each person but whatever it is, it is a lot of money that this borrower would have ?left on the table? by not being able to complete this transaction.

Now let?s take an example of a refinancing transaction:

1) Couple wants to take advantage of the lower rates but is unsure how long they will stay in the house. They want to move eventually but they are afraid that in may be several years before they will be able to sell at an acceptable price. As mortgage brokers, one of the valuable tools we can offer a consumer in a situation like this is a no cost loan. We can increase their rate enough to pay enough YSP to not only pay ourselves but also to pay all the clients closing costs. So they get to lower their rate for free. Yes they are taking a higher rate than they would have gotten if they had paid the closing costs, but if they are trying to sell down the road anyway, they never would have saved enough with the lower rate to justify paying the closing costs?this is called a ?win, win?.
2) Many people in today?s environment that go to refinance do not have enough equity. But they might, if they didn?t have to pay closing costs. If the broker

has the option to pay the costs for them out of YSP, they can get a lower rate and it costs them nothing. Point is that it should be the consumer?s choice.

These are just a few examples of how this would limit consumer?s choice and stifle the housing market. I believe that this rule was a net result of some lenders a few years back that used to offer higher YSP to brokers that sold the most risky loans (Option Arm?s that were negatively amortizing). These loans and the bad apples in our business that sold them, no longer exist. Please don?t let this prevent the good mortgage brokers that are left from serving the needs of the consumers who really need our assistance by offering this valuable choice.

Thank you for your consideration.

Sincerely,

Scott Evans