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**Subject:** Regulation Z

I am writing this letter in response to the proposed rule amending Regulation Z (Truth in Lending and HOEPA).

I have been in the banking and mortgage broker industry for over 21 years and applaud the efforts of the Board to finally implement changes to the mortgage broker and banking industry. For too long those of us who genuinely work for our customers have had to sit by while less scrupulous individuals and companies cast a black cloud on our best efforts. Some of the changes are welcomed.

However, as much as I recognize the importance of changes in our much maligned industry, it appears that sometimes, even with the best intentions, proposed changes that look good on paper are impossible to implement in the real world, and can cause confusion when there was none to begin with.

My client base is average everyday working citizens. I am proud that everyone of my customers comes from a referral of one source or another. The vast majority of them do not know the difference between a mortgage banker and a mortgage broker and frankly I don't care whether they ever know. It's not important!

BUT one thing is important, and that is how I earn my living. I do not charge origination fees and make my money on the Yield Spread Premiums (YSP) offered by the many banks I do business with. I ALWAYS disclose that I will earn YSP on the transaction and the exact amount is ALWAYS disclosed on the final Good Faith Estimate. The one thing I cannot do however is disclose the amount at or before application as is being suggested in the proposed amendments, because there is no possible way to know what it is going to be!

I would be interested to know in the planning stages how this proposed change was proposed, and if it was thought through in detail. Here are several everyday common scenarios:

1. A client is referred to me that is looking to buy a house. I charge no fee for meeting with the client, taking a loan application and ordering and paying for credit reports. I am happy to give them a pre-approval and an **estimated** monthly payment based on their budget and the interest rates published on the day of pre-approval. Sometimes the clients will find a house quickly, sometimes it may take 6 months depending on their particular circumstances, sometimes their personal situation changes and they never end up buying a house. QUESTION – what precise amount of YSP do I disclose, and when do I do it? Not to mention any title company fees which vary between companies.
2. A client wants to refinance but only wants to do it if rates drop to a certain figure. At the time of application the rate is not obtainable but there's a chance that rates will drop and when they do, the client wants me to immediately take advantage of that rate. QUESTION – what precise amount of YSP do I disclose, and when do I do it?
3. An application is taken but the customer wants to "float" the rate as they believe (not always correctly) that rates will get better during the processing period. QUESTION – what precise amount of YSP do I

disclose, and when do I do it?

4. A client wants to refinance his property and believes his property to be worth \$200,000. He wants to borrow some cash in his new loan amount of \$140,000 (70% of the value). During the application process the appraisal is completed and the property is only appraised for \$170,000. Now his loan will be 85% of the value causing there to be mortgage insurance (MI) plus an increase in the rate because it is now a cash-out transaction above 70%. So, I could offer Lender paid Mortgage Insurance but that too would raise the rate (but maybe cheaper than the monthly MI payment). QUESTION – what precise amount of YSP do I disclose, and when do I do it?

There are numerous other examples. Rates are not static and can change several times throughout the day, loans change during the process, and clients change their minds! Unless you have all the facts in writing and verified before the application, it is IMPOSSIBLE to know what your YSP is going to be until you lock the rate (and even then it can change as circumstances change, locks get extended etc.).

So, if in fact this rule is implemented here is what is going to happen. We will disclose the maximum that is allowable by law and merely point out to the borrower that we have to do this by law but the actual amount will change at closing because there is no way at present to know what it is going to be. That actually doesn't make anything different than what we do now, and is similar to the over inflated fee disclosures that banks currently send out to proposed clients.

I am fully in favor of any proposed changes that will protect customers from bad practices, unscrupulous lenders (brokers and banks), and fraudulent individuals. If we can get rid of the "bad eggs" in this industry through regulation and accountability then I'm all for it. BUT efforts should be concentrated on that and not on disclosures that are confusing at best, will not be read by clients, and are not even uniform throughout the industry. If brokers have to disclose YSP (not a problem as long as it is at the right time), then ALL lenders (banks included) should have to disclose – that is if you want to level the playing field and really give consumers the choice that they deserve.

Thank you for considering my thoughtful (and maybe long-winded) comments

Sincerely

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