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Comments:
Home Ownership and Equity Protection Act (HOEPA) Public Hearing June 14, 2007
Currently in the news, we are seeing the home mortgage industry taking a predictable turn (especially for those familiar with the underwriting practices of mortgage lenders), and the "house of cards" created over many years -- is beginning to crumble. I worked for over four years as a mortgage loan officer for a large savings institution. Even though this institution had high standards and strict guidelines for lending, I knew quickly after becoming a loan officer that I was working within a financial community with lending practices that were much different from my twenty plus years in banking. During my mortgage lending years, I was naive in thinking I could bring some honesty to the business and although most lenders are driven by their commissions, I would try to provide correct information to my customers and good customer service. As I said, I was naive. The bottom line is maximum number of loan fundings, not customer service. Ask anyone how their last mortgage loan transaction went, and typically there were inconsistencies in what they were told up-front versus their closing documents. After experiencing the industry first-hand, I saw the bait-switch tactics used, the complete disregard for compliance to regulations, and the improper lending to non-creditworthy individuals. If this type of lending were occurring with a nationally supervised financial institution, they would be dealt with accordingly. In banking, whether supervised by the FDIC, Federal Reserve, NCUA, OCC, or OTS, the standards of all agencies have a consistency which maintains a level of prudent and legal lending. It is my understanding that mortgage lenders are regulated by each state, which depending on the states' financial resources and overall focus to regulation can vary greatly from state-to-state. Enforcement of violations are primarily focused on license removal and perhaps fines. Many times, the violators will go to a different state and setup their operations again or will find an alternative method to continue doing business in the same state under a different name. An attempt by

any supervisory agency to change the current procedures for home buying and lending will be met by several strong political action committees. The realtors, homebuilders, appraisers, and mortgage lenders are represented by associations, who are well organized, well-funded, and practice lobbying at the state and national levels to prevent any questioning of their business practices. Prior to the failures of the thrift institutions in the 80's, there were many red flags that predicted the results, but were not acted upon or addressed with adequate enforcement. I have often wondered why the Federal Reserve Bank was never assigned a more supervisory role in the mortgage loan industry, as there are billions of dollars invested in the secondary markets by depository institutions and much of our economy is affected by mortgage lending (from housing starts to consumer spending and to overall interest rates). For this problem to be tackled properly, it will take an organization that is respected nationwide, is strong, has the backing of the government, has experience in regulation, and has the financial resources (not available at the state levels). Not many organizations would qualify to take on this task. Creation of a new organization is definitely the wrong approach. Coordination with more than one organization would prolong the changes which are needed now. It needs to be said that any changes to the lending process will be perceived by some minority groups as attempts to limit the availability of home ownership to certain minority groups. An organization that represents the concerns of all consumers should be given the responsibility for supervising the mortgage lending industry. It is very important that caution is taken when considering any changes to prevent further harm to low income and minority consumers, as they have been victimized by many years of sub-prime lending practices. Based upon my personal experiences as a consumer and former mortgage lender, I am suggesting the Federal Reserve Board consider the following changes (which may already be under consideration): 1) The consumer needs advanced time (2-3 days) to review their loan documents before signing. Loan closings occur under primarily hurried conditions with limited availability for answers to questions on their home loan. The pressure of a moving van in their driveway and their funding tying up the loan closing in another state creates a pressure cooker where the consumer is signing a truth-in-lending and closing statement that is far from their original disclosure received weeks earlier. 2) The mortgage lending industry does not need additional disclosures, forms, or paper. They do need clarity in their current disclosures, forms, and paper. As each new regulation is approved another form is issued. Can you take all of the forms – start over and write a note with the closing statement and truth in lending, deed of trust, and add one rider/attachment that includes their mortgage servicing disclosure, additional rate adjustments, escrow agreement, etc. There should be an easier way to say we are loaning you money to buy a house (or refinance you current loan) and if you don't pay us, we have the right to remedy the problem and if necessary take the house back. 3) Escrows for taxes and insurance should be mandatory on an 80% loan-to-value or greater (in every state), BUT – the consumer should be paid interest (at least the average rate paid for savings accounts) while holding their funds in excess of 60 days. 4) Prepayment penalties are just unnecessary and may be considered usurious when added to the total interest paid for the year. The mortgagee should not refinance unless they can recoup the costs of the new loan (plus the prepay penalty with their former lender) within three years. Consumers should be counseled or educated on how much the new loan is really going to cost versus a disingenuous sales pitch. When buying/selling a home, the mortgagee is virtually held hostage to stay with their current lender or pay the prepay penalty. This is not a good practice for giving consumers the ability to shop for the best loan product for their needs. 5) Underwriting requirements should require calculation of ratios at the borrowers' highest possible rate. Many loans have low adjustable rates with annual payment ceilings (even though the interest rate is higher), which creates negative amortization situations. These types of loans should only be allowed at lower LTV's. 6) Settlement statements should have standard terms used by every lender and Title Company. You shouldn't be able to hide fees behind origination fees, document preparation fees, underwriting fees, appraisal fees (yes, sometimes the amount charged the customer is not the amount paid to the appraiser), attorney fees (and no attorney is even involved), lender fees, broker fees, and points. If a fee goes to the lender then it should be as one fee and one fee to the Title Company, etc. There is unbelievable industry-wide abuse of this document. It would be difficult to begin supervising or regulating any mortgage lender if you must decipher the intentional confusion on the settlement statement. 7) The predatory nature of the business needs to change. Lenders should be paid a salary and not straight commissions for how many loans are funded. A lender can receive a bonus, but not strictly on their number of loans, rather their overall performance (years of service, quality of service, and production). A different pay structure would change the industry to reduce the turnover and increase the professionalism of the employees. I don't know how this can be accomplished, but many auto dealerships have moved to salaries versus commissions and have improved their reputation. 8) Initiate a certification program provided by a nationally recognized supervisory organization. The program would include examinations by the supervising organization on the practices of all mortgage lenders, based upon a measurable set of criteria. Mortgage Lenders would pay a fee to become "certified". The fee would probably be passed onto the consumer, however any fee would be small compared to the penalties that tax payers will pay for continuance of funding bad loans. The realtor community and related service industries would benefit by referring their clients to a certified mortgage lender. Many realtors are frustrated that they do not receive honest information from mortgage lenders on whether a customer is capable of being approved for loans and are showing homes above the customers financial level. The certification would give confidence to the homebuyer, much like a consumer chooses a financial institution that is insured by the FDIC and supervised by one of the regulatory agencies. Minority groups would benefit from working with a certified lender who practices equal and fair lending and provides the proper options/information for their financial needs. This certification program could extend to certify appraisers and title companies. Failure to comply with the criteria by the mortgage lender would cause revocation of certification and publication of said revocation. and / or 9) Congress should appoint responsibility, either partially or completely (preferably to one) to nationally recognized supervisory organizations for examining and enforcing the regulations upon all mortgage lenders, mortgage brokers, finance companies, and insurance companies who extend credit to consumers for the purpose of purchasing or refinancing their primary residence. This would take many years to achieve a partial or complete hand-over of regulation, but would bring the industry into an ongoing organization with proven experience for enforcement of the law and would gain the confidence by consumers they are being adequately supervised. There should be a date of inception to which the new supervisory organization would begin regulation and the state regulators would remain responsible for all lending prior to the inception date. Of course, the state examiners would be considered for immediate availability to the new regulatory organization for continuing supervision responsibilities. State representatives and elected officials should understand that a switch in supervision is not creating more liability for the government, but shifting the authority to an organization with adequate means to handle the problems and lifting the burden from each state. Thank you for your consideration. Respectfully, Cindy Maples Kansas City, MO