

SHB 2770 Rulemaking - "Disclosure Summary" Comments

Name: Michael Mullin

Received: September 19, 2008

Comments:

Following are comments and concerns I have regards the new disclosure form.

In the "Other conditions of your loan" section there is a Yes/No check box for Your interest rate is locked. Is this going to negate the necessity to use the Lock/Float form that DFI mandates we use currently? If not, this is just redundant information and I would suggest it be removed.

Immediately below that comment is "your interest rate or fees are higher because documentation is reduced." I honestly don't know how to answer that question. I think I understand the intent – that when a client takes a Stated Income/Stated Asset loan they are accepting a rate or fee that would otherwise be lower if they provided full documentation. My problem with this is that the industry doesn't really have standard words to describe those types of loan programs. What's the definition of "reduced?" Is a loan program that allows bank statements for income verification considered "reduced?" How about when I get a DO finding for a Verbal VOE only? Is that "reduced?" If we get past the issue of defining "reduced" then I have an issue with the definition of "higher." It might be possible to determine a certain rate or fee is higher for the given doc type at ONE particular lender but how am I to know if my "reduced" doc rate or fees at Lender A are higher or lower than the rate or fees for a full doc loan at Lender B?

Regards the paragraph whereby DFI attempts to define a YSP – the information is factually incorrect and I'm not sure if it is so due to your desire to keep the paragraph short or if it is a deliberate attempt by DFI to create their own negative connotation of the term Yield Spread Premium.

The paragraph as written says "YSP means a payment to a broker by a lender for originating a mortgage loan." As far as I know that is not correct. A YSP is paid ONLY IF the note rate secured for the borrower is above par – for that specific lender. If the note rate is at par or below there is certainly no YSP paid – hence the sentence as written is factually incorrect. A broker is not paid a YSP for originating a loan for a lender. They are only paid a YSP for originating a loan at a higher rate than that lender's par rate.

The next sentence on the form is "The YSP should be used to reduce the fees normally charged the borrower for a market rate loan." Again, this statement is factually incorrect and misleading to the consumer. First, what regulation says the YSP "should be used to reduce fees?" YSP certainly can be used to reduce fees but I've never seen a legal requirement to do so. And what is the definition of "a market rate loan?" Is it the average rate that Freddie Mac reports on a weekly basis? Is it the rate that the neighborhood credit union offers? Or the rate offered by the borrower's commercial bank? Of course, those last two would be impossible for the consumer to compare with because neither of them have to disclose the YSP.

The proposed disclosure only uses two sentences to describe the YSP to the consumer, yet there are at least three misleading and factually incorrect assumptions stated in those two sentences.

If DFI's intent is to explain the YSP to a consumer then let's do it. But let's also be clear that YSP in and of itself is NOT a factor that can be used by the consumer to compare loan quotes from different brokers. The note rate, lender fees, and lock term are all items that can be used to compare two loan proposals. Oh, and that thing called APR that's been around for a few decades.

Following is my attempt at accurately defining YSP for the consumer:

YSP is a form of compensation paid to the mortgage broker by a lender for delivering a closed loan at a given note rate. Not all loans result in a YSP being paid, and different lenders may compensate the mortgage broker a different YSP amount for the same note rate. If a YSP is going to be paid, the amount of compensation is required to be disclosed by the broker on your Good Faith Estimate. The payment of a YSP, and the amount, is determined by the note rate of your loan and the existence, if any, of a pre-payment penalty. The note rate your broker has secured for you may be below, equal to, or above market rates regardless the amount of the YSP.

I appreciate the opportunity to comment on the proposed disclosure form. I have always been in support of appropriate consumer disclosure and I am convinced it can be done in a way that does not create prejudicial feelings towards the mortgage broker community. The language DFI is planning to use is inflammatory, accusatory and inaccurate. None of which is a productive way of moving forward on this important issue.

In closing, let's define YSP for what it is – compensation to the mortgage broker. It's that simple.

Sincerely,

Michael Mullin

Loan Consultant
First Priority Financial