Established in 1973, NAMB is the only national trade association representing the mortgage professional industry. With members in all 50 states, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality when working with consumers.

Legislative Changes Needed to 3% Qualified Mortgage Rule

Issue

Too many fees are counted in the 3% Qualified Mortgage (QM) calculations. The Qualified Mortgage three-percent points and fee cap was not intended to count payments already included in the rate offered by and set by the creditor.

Solution

Remove from the 3% cap any payments that are already included in the rate set by the lender/creditor. Co-sponsor H.R.2570, The Mortgage Fairness Act of 2017.

Background

A definitional error that occurred while formulating the Qualified Mortgage definitions of the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173) remains unaddressed and is in urgent need of correction. This error has caused unintended consequences for low- and moderate-income consumers by distorting their mortgage market options increasing their costs.

Importantly, the 3% QM Rule definitional error creates a disparate impact on low- and moderate-income borrowers, placing them in higher rate loans than they could otherwise qualify. Specifically, this provision negatively impacts loans in the $100,000 to $200,000 range because brokered mortgages must count excessive numbers of mortgage loan related items within the 3% cap.

CFPB Acknowledgment of Problem

The CFPB pointed out this inequity in a release published in the Federal Register June 12, 2013, (78 FR 35429), when it utilized it's Congressionally granted power to exclude payments from the QM points and fee cap from a lender to their employees. The CFPB pointed out that a similar result should occur for payments from lenders to a brokerage companies and their loan originator employees since such fees are already reflected in the mortgage rate and are being counted twice.

Current Law Harms Consumers

This definitional anomaly, and the subsequent rules issued by the CFPB, create a disparate impact on low-loan amount borrowers. This unintended consequence occurs where these specific borrowers are forced to obtain higher-priced loans than otherwise could be acquired in the market

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because of a lack of natural competition.

Mortgage brokers operate in inner city areas where many banks do not have bricks-and-mortar buildings. Currently, the rules make such business operations even more unfeasible. In many cases a mortgage broker is the only source of expertise on mortgage lending available to these consumers. Pricing their services out of the reach of low- to moderate-income consumers only makes the home buying experience more difficult for these communities.

Making this Correction Will Benefit Consumers

On February 15, 2013, the CFPB published in the Federal Register Loan Originator Compensation Rule. This rule sets loan originator compensation at a set percentage of the loan amount and is set by contract and cannot be increased or decreased.

Because of this loan originator compensation limitation, making the legislative change to the 3% cap will not permit mortgage loan originators to overcharge borrowers; it will permit them to operate and compete in the $100,000 to $200,000 mortgage loan market.

Consumers will greatly benefit from the removal of creditor payments to mortgage broker companies from the 3% Qualified Mortgage cap.