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From: Reinhart, Mary Ann on behalf of Public Info
Sent: Wednesday, June 28, 2000 2:59 PM
To: Gottlieb, Mary H
Subject: FW: ANPR No. 2000-34 Response

Microsoft Word 4

-----Original Message-----
From: Alex_Kolumbus@assurant.com [mailto:Alex_Kolumbus@assurant.com]
Sent: Wednesday, June 28, 2000 8:53 AM
To: public.info@ots.treas.gov
Subject: ANPR No. 2000-34 Response

Manager
Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G St., N.W.
Washington, DC 20552

Re: Advance Notice of Proposed Rulemaking ? Responsible
Alternative
Mortgage Lending

Dear Sir or Madam:

Attached is Assurant Group's response to the OTS's request for comment
on
ANPR No. 2000-34. A signed paper document is also being sent to the
above
address. Please call me at (305) 278-5602 if you have any questions.

Sincerely,

Alexander G. Kolumbus
Compliance Counsel
Government Affairs

(See attached file: 6-27 Letter to OTS.doc)

June 28, 2000

Docket No. 2000-34
Manager
Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G St., N.W.
Washington, DC 20552

Re: Advance Notice of Proposed Rulemaking – Responsible Alternative Mortgage Lending

Dear Sir or Madam:

This letter is Assurant Group's response to the Office of Thrift Supervision's (OTS) request for comment on its advance notice of proposed rulemaking (ANPR) regarding alternative mortgage lending transactions. Assurant Group supports efforts to ensure that consumers are adequately informed about all aspects of their home loan transaction so that they can make rational financial decisions of their own free will.

Assurant Group's principal business involves the underwriting and administering of credit insurance programs for a variety of financial institutions including national and state banks, credit card issuers, retailers, mortgage and consumer finance companies. Therefore, the comments contained herein are limited to the financing of single premium credit insurance.

This document identifies the issues involved and addresses some of the misconceptions about financing single premium credit insurance in connection with home loans. Recommendations for alternative solutions are made and responses provided to the ANPR's questions concerning credit insurance.

There are two central questions regarding the potential prohibition on financing single premium credit insurance in connection with home loans. The first is whether it is appropriate for government to tell individuals what they can and cannot buy with the proceeds of their home-equity loan. The second question is whether there are sufficient consumer protections to enable consumers to make informed, voluntary decisions regarding the purchase and financing of credit insurance.

If a consumer wants to take out a loan collateralized by his home and use the proceeds to go on vacation or buy insurance, is it the role of government to tell him he cannot do so? This does not seem to be an appropriate role of government. It would appear that government's role is to ensure that the consumer is adequately informed about the cost and financing terms of the items purchased. It is also government's role to make sure the consumer realizes that the loan is secured by his or her home, and that the transaction is truly a voluntary one.

The following primary issues appear to be involved: is there a need for financed single premium credit insurance; is there any value to credit insurance, and; do existing laws provide sufficient consumer protection from predatory lending practices as they pertain to financed credit insurance.

THE NEED FOR CREDIT INSURANCE

The May 15, 2000 issue of Time magazine reported that 51% of the 1.2 million bankruptcies filed in 1999 were filed because of job loss and that 46% filed due to medical reasons. One would suspect that the same things that cause people to file bankruptcy result in foreclosure. If the individuals who filed had insurance to cover these events it would have helped them to avoid bankruptcy and foreclosure.

THE VALUES OF CREDIT INSURANCE

Credit insurance pays in the event the covered individual dies, becomes disabled, involuntarily unemployed or has to take a leave of absence under the Family Medical Leave Act. These are valuable and needed benefits for both the insured and the creditor.

Claims Paid Figures

Over the last seven years, our company alone has paid over 3,600 single premium financed homeowners' claims totaling more than 46 million dollars. These are significant figures that demonstrate a quantifiable consumer benefit to the product.

Affordability

Credit insurance is affordable for many consumers because of the modest monthly premium. Financing is available to make the products even more affordable. Thus, the protection becomes a small, manageable cost within personal and family budgets and does not lapse when money is tight.

Specific Debt Protection

Credit insurance insures a specific loan, so the amount of coverage purchased usually equals the exact amount of the debt. Many consumers believe they need only enough insurance to cover their outstanding indebtedness, not the larger minimum amounts generally associated with ordinary life insurance products.

Convenience

Credit insurance is available where consumers do business and when they are conducting their credit transactions. There are no lengthy forms to complete and enrollment can be as simple as signing an acceptance form. Convenience and ready availability are significant value-added benefits that consumers demand and are willing to pay for.

Universal Availability

Credit insurance provides many consumers their only realistic opportunity to obtain insurance protection since many consumers cannot afford and/or are not offered "traditional" insurance. There are minimal qualification requirements, limited underwriting, and coverage is almost universally available for individuals below age 66.

Very Limited Underwriting

In contrast with ordinary life insurance products, credit life insurance has minimal qualification requirements; medical examinations and lengthy histories are not required. Health questionnaires used with credit insurance, if used at all, make minimal health inquiries. When buying ordinary life insurance an applicant is rated by age, sex, and personal habits, like smoking. The applicant may also have to undergo a physical examination, furnish a blood sample and provide an extensive medical history. The amount the consumer pays for traditional life insurance is determined by these factors, with the cost increasing with age.

Disability Benefits That Might Not Otherwise Be Covered

Workers who become permanently disabled may experience lengthy delays in receiving social security benefits. While waiting to receive social security payments they may not receive disability benefits from their employer or income from any other source. Individuals with temporary disabilities may only receive limited sick pay, if they are paid at all.

Compounding the disabled workers' financial problems are the high costs of medical bills and other living expenses. These costs may not be covered, or only partially covered, by traditional health insurance. Credit disability insurance enables the worker who becomes disabled to make monthly payments and avoid delinquency on the insured account.

Individual Credit and Credit- Market Protection

Credit insurance helps protect consumers from the consequences of financial delinquency: foreclosure, repossession, bankruptcy, impairment of the ability to obtain credit, and bad credit ratings. Lenders benefit from credit insurance as well, since they are protected from loss and delinquency. This helps to keep interest rates reasonable, encouraging consumer lending, increasing available credit, and creating a more positive economic impact. As a result of all these characteristics credit insurance offers important advantages to certain borrowers who find it to be a convenient and economical way to purchase protection against debt default.

MISCONCEPTIONS ABOUT SINGLE PREMIUM CREDIT INSURANCE FINANCED IN CONNECTION WITH A HOME LOAN

Financed Single Premium Credit Insurance is not a Large Percentage of the Total Subprime Home Loan Market

Contrary to what some individuals have stated, only a small percentage of subprime home loans have single premium credit insurance financed as part of the loan transaction. Assurant Group retained CreditRe Corporation to determine the amount of credit life and disability insurance in force that was financed in connection with the total subprime home loan market. It is estimated that only 12% of the 150 billion dollar subprime home loan market has financed single premium insurance on it. In reality, the financing of single premium credit insurance is simply not the widespread practice it is alleged to be.

Coercive Sales Practices

Certain groups have falsely accused the credit insurance industry of engaging in deceptive sales practices to increase their sales figures. This allegation has been consistently and repeatedly disproved by numerous studies performed over the last 20 years by independent academic and governmental institutions.

The Purdue Study

The most recent of these studies was performed in 1993, by Purdue University's Credit Research Center.[i] Included among the issues the study sought to probe were whether consumers are aware of their credit insurance purchase; and, the prevalence of coercive sales tactics in the marketing of credit insurance.

In 1994, Purdue University issued a report (Purdue report) stating that "purchase patterns for credit insurance are readily explainable without reliance on seller coercion as a factor."[ii] The study found that "the majority of credit insurance consumers have not felt pressured to purchase the insurance and were generally satisfied with their credit insurance."[iii]

The Purdue report expanded upon four previous national studies of credit insurance, conducted between 1970 and 1985. Prior results have consistently contradicted consumer activist criticisms - "all of the [four earlier] studies reached the same general conclusion that consumers viewed the benefits of credit insurance favorably, relative to its cost. Furthermore, none of the studies detected convincing evidence that creditors coerced borrowers into purchasing credit insurance on a widespread basis."[iv]

Federal Reserve Board Studies

The Board of Governors of the Federal Reserve (the Fed) has sponsored two credit insurance studies. The Fed concluded after its first study that "the relatively low proportion of loan customers, especially those of retailers or commercial banks, who perceive pressures, either explicitly or implicitly, to make the joint purchase (of the loan and the credit insurance) is not consistent with the hypothesis that involuntary tying is widespread. This conclusion is given further support by the very high rate of approval of the service and by the high proportion of customers who do not regard the service as expensive. Rather, the high frequency of purchase of credit insurance together with consumer attitudes are more consistent with the hypothesis that the joint purchases are voluntary."[v]

The Fed further concluded that "creditors in general do not subject borrowers to undue pressure to purchase a product (credit insurance) that they do not want."[vi] The Fed also concluded that "consumers who purchase credit insurance believe it is a valuable product and would be inclined to purchase insurance in the future."[vii]

Packing

Critics also incorrectly allege that credit insurance penetration rates are inflated because they include consumers who do not realize they have purchased the product (packing). The implication is that some creditors slip the credit insurance application or enrollment form amongst the multiple loan documents being signed by the unsuspecting consumer. Consequently, the consumer unknowingly authorizes the purchase.

The Purdue University study examined this issue directly. It concluded that "the evidence regarding consumer awareness of both levels of coverage (life and life plus) is quite inconsistent with an assertion that consumers are largely unaware of their credit insurance purchases."[viii]

It seems logical that both packing and coercive pressure applied to a reluctant borrower would, on average, be reflected by customer dissatisfaction with the credit insurance purchase. In studies that asked people who actually purchased or said they purchased credit insurance, the resounding majority of respondents said they would purchase credit insurance again. If people had unknowingly purchased credit insurance or had been coerced into purchasing it, then it does not make sense that they would overwhelmingly state that they would buy it again. Exhibit 1 shows the results of the studies.[ix]

[illegible]				
	1970 Ohio	1979 FRB	1986 FRB	1994 Purdue
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
No	8.5	8.0	5.7	22.0

Credit insurance critics also wrongly contend that as sales commissions (which are a percentage of the rate charged, prima facie or otherwise) rise, the amount of consumer coercion increases proportionately. Not suprisingly, consumer advocates seek to keep prima facie rates low.

The theory that links prima facie rates to the level of sales effort and possible coercion is straightforward. A wealth-maximizing salesperson whose compensation is tied to the volume of sales will try to sell products with the highest expected return. The argument is that as the potential compensation to an agent from selling credit insurance rises, more time and effort will be spent offering and explaining the product, all else being constant. It would seem to follow then, that creditors in states with higher prima facie rates would pursue different (more coercive/deceptive) sales practices than creditors in lower prima facie rates.

The Purdue study examined this issue and found it not to be the case. "Individuals in high prima facie rate states are not more likely to report that a) they were told that credit life insurance was required, b) they thought credit insurance would improve their chances of obtaining the loan, c) they thought credit life insurance would get them better credit terms, or d) they felt pressure to purchase credit life insurance. Thus, the data do not support the argument that the potential for greater sales commissions available in high prima facie rate states promotes high pressure or deceptive sales tactics."[x]

Refunds

Refunds of unearned credit insurance premiums are mandated by state law and are paid or credited promptly to the consumer in accordance therewith.[xi] If a consumer's credit insurance policy is cancelled (for example, due to loan prepayment because of refinancing) a refund will either be paid to the consumer directly or credited to the consumer as part of the refinancing transaction. In the situation where the consumer receives a premium credit as part of the refinancing transaction, the consumer does not receive any cash-in-hand which may explain why some consumers mistakenly think they are not receiving a refund of the unearned insurance premium.

Alleged Low Loss Ratios Imply Product is a Bad Deal For Consumers

The 40% loss ratio cited by HUD and Treasury in their June, 2000 report to Congress is incorrect. This loss ratio was for <u>*all*</u> credit life and disability products – not just those covering home loans. Coverage on credit cards and installment loans are included in the 40% figure.

The actual loss ratio for single premium credit insurance financed in connection with subprime real estate secured loans exceeds 60%. This intuitively makes sense because it takes a number of years for a person to build equity in their home. Therefore, most people purchasing credit insurance on their home loan are older. Older people tend to have more disability and death claims, which drives up the loss ratio.

The threshold question is whether it is even appropriate to judge the value of a credit insurance product by a simple loss ratio approach.[xii] In reality, the loss ratio is an arbitrary formula that fails to give state regulators true control over setting rates and does not take into account an insurance company's total cost of doing business. The inherent flaw with a simple loss ratio approach to setting rates is that it does not ensure that adequate margin is left to cover fixed expenses.

In no other industry is the sale price of a product based solely on the pure cost of the good sold. If that were the case, then athletic shoes for example, would cost ten dollars; not a hundred dollars and cereal would cost $0.50 per box. Instead, sale price takes into account not only the manufacturing cost of the item sold, but also other equally valid and real costs; such as marketing, advertising, distribution, packaging, administration and reasonable profit.

In theory, when using the loss ratio approach to setting rates, a change in the insurer's claim costs would trigger an automatic change in the prima facie rate, without consideration for any other insurer expense factors. For example, if a 50% benchmark loss ratio is applied to an insurer's claim costs of 25 cents, the resulting prima facie rate would be set at 50 cents, out of which 25 cents would be left to cover all of the insurer's operating costs.

Continuing the example, if the insurer's previous claim costs of 25 cents decline to 15 cents, the 50% loss ratio forces the prima facie rate to drop to 30 cents, leaving the insurer with only 15 cents to cover all its operating expenses. As this example illustrates, when claim costs decline, the rigid benchmark loss ratio formula forces a corresponding decrease in the amount available for insurer expenses, without consideration for whether any change actually occurred in the other insurer expense factors.

Financing Single Premium Credit Insurance Provides no Actuarial Benefit

There are indeed actuarial benefits to collecting credit insurance on a single premium basis and financing it.

- Credit insurance calculated and paid on an average monthly outstanding balance (MOB) basis will be more expense on a per unit basis when compared to a single premium which has been discounted for the time value of money.
- The typical subprime borrower pays late on occasion, incurring late fees that drive up the average monthly outstanding balance on which the MOB premium would be based. Such late fees do not drive up the cost of single premium insurance.
- The cost to calculate and administer an MOB product is higher than a single premium product. Such costs would have to be added to the price of the MOB product.
- The lapse rates on MOB products are significantly higher than for single premium products.

EXISTING CONSUMER PROTECTIONS

According to HUD and Treasury, abusive practices in home-equity lending principally fall within two categories. The first category includes the use of blatantly fraudulent or deceptive techniques. The second category of abuses encompass various "hard-sell" techniques to manipulate a borrower into accepting a loan containing terms they did not want, understand or realize they were purchasing.

Such practices are already illegal and give rise to a common-law and statutory cause of action for fraud and misrepresentation. Individuals intent on defrauding consumers will not likely be deterred by making it illegal to finance credit insurance in connection with a home loan. Such unscrupulous individuals will simply find another way to scam the public and the only parties hurt will be the consumers who need insurance and the insurance industry.

The Truth In Lending Act (TILA) requires the lender to disclose to the consumer the credit insurance premium and obtain the insurance purchase approval in writing to keep the premium from being included in the finance charge. TILA also gives the consumer a three year right to rescind the transaction if these disclosures are not delivered or if they are inaccurate. Additionally, the Real Estate Settlement Procedures Act (RESPA) requires settlement costs and fees to be disclosed in the good faith estimate and HUD-1 settlement disclosure statement.

Assuming for the sake of argument that the aforementioned TILA and RESPA required disclosures and judicial remedies are inadequate to protect consumers, there are alternative ways to protect consumers than to completely prohibit the financing of single premium credit insurance in connection with home loans, especially when the insurance provides needed protection for a large uninsured segment of the population.

ALTERNATIVE SOLUTIONS

The Board of Governors has stated that in considering options for reform it is essential to recognize that any regulatory scheme involves trade-offs. Government-imposed rules dictating when and on what terms consumers can obtain credit or insurance sometimes raise issues of fairness and economic efficiency. Legislative rules tend to be less flexible and to allocate credit less efficiently. Caution should be taken not to enact broad rules that unnecessarily burden the entire home-equity credit and insurance industry in an effort to regulate the few unethical or dishonest players. The desirability of a rule that narrows a consumer's options depends on the circumstances or the perspective of the particular consumer. Preserving consumers' ability to choose loan and insurance products that meet their particular needs ought to be a significant consideration.

Whatever recommendations the regulatory agencies may make or statutory changes the Congress may enact, there probably will continue to be some creditors and mortgage brokers that will try to take financial advantage of those who are most vulnerable. If undeterred by the existing laws, they may not be deterred by new prohibitions or they may simply devise different schemes. There is no gain from new rules if they are followed only by those creditors and mortgage brokers who have not been causing problems.

Accordingly, new rules or remedies should be precisely fashioned to address the specific abusive practices that are of concern. It is inappropriate therefore, to include the cost of credit insurance in HOEPA's fees-based test. Credit insurance is not a finance charge, a cost of obtaining credit or a closing cost. Credit insurance is a product that is *voluntarily* purchased by the consumer with his or her loan proceeds, the same way a new roof or kitchen is paid for out of home-equity loan proceeds.

It is also inappropriate to require lenders to apply suitability standards to determine if a consumer should have financed credit insurance. Rigid standards would be difficult to agree upon, implement and enforce. For example, if an individual has traditional life insurance coverage but wants to finance credit insurance so that his family can benefit from the full proceeds of the traditional policy, should that be prohibited? At what dollar amount would an existing policy affect the ability to purchase credit insurance? How would the lender verify coverage? What would happen to the lender that relied on erroneous information supplied by the consumer? The burden that impossible to administer suitability standards would impose on lenders would outweigh any potential benefits to consumers.

Post-closing Notice Coupled With 30 Day Free Look Period

Sometimes the best solutions are the simplest ones. Instead of requiring a rigid suitability test, a tricky fee-based test or complete prohibition of the product, we suggest mandating a simple 30-day free-look period and coupling it with a required post-closing notification that is sent to the consumer's home address.

Assurant Group's single premium insurance products already come with a 30 day "free-look" period. If the consumer notifies us of his intent to cancel the insurance within that time period he receives a full refund of premium.

The post-closing notice would be written in plain English and inform the consumer that he purchased single premium credit insurance and financed it as part of the home loan transaction. Additional information such as price, insurance coverage term, cancellation instructions and the fact that the insurance is not required would also be provided.

The consumer would be able to read such a notice in the privacy of their own home without the pressure involved in a loan closing. We believe that the post-closing notice combined with the 30 day free-look would protect consumers from both the alleged fraudulent and hard-sell abusive practice situations. At the same time, consumers that want to finance credit insurance as part of their loan transaction to protect themselves and their family would be able to do so.

CONCLUSION

Financed single premium credit insurance can be compared to automobiles. They are both useful products that if misused can cause harm. No one is advocating the prohibition on the sale of cars because people drive drunk and hurt others. Instead, laws have been enacted to prohibit the improper use of the product – for example, drinking and driving is prohibited. Similarly, the financing of single premium credit insurance in connection with home loans should not be prohibited. Instead, the improper use of the product (for example, packing, flipping, improper extension of credit in the first place) should be dealt with, either by passing laws to prohibit such activity or enforcing existing laws.

Thank you for your time and thoughtful consideration of the issues involved. As always, if you have any questions or comments I can be reached at (305) 278-5602.

Sincerely,

Alexander G. Kolumbus
Compliance Counsel
Government Affairs

[i] The Credit Research Center, established in 1974, is a publicly supported, nonpartisan research and educational organization. The Center operates as a nonprofit unit of the Krannert Graduate School of Management at Purdue University.
[ii] John M. Barron, Ph.D. & Michael E. Staten, Ph.D., Credit Insurance: Rhetoric and Reality, Monograph No. 30, p. 1-2, Purdue University Credit Research Center, 1994.
[iii] Id. At 1-1.
[iv] Charles L. Hubbard, Consumer Credit Life and Disability Insurance, Ohio University, 1973; Robert A. Eisenbeis and Paul R. Schweitzer, Tie-Ins Between the Granting of Credit and Sales of Insurance by Bank Holding Companies and Other Lenders, Staff Study 101, Board of Governors of the Federal Reserve System, February 1979; Anthony W. Cyrnak and Glenn B. Canner, Consumer Experiences with Credit Insurance: Some New Evidence, Economic Review, Federal Reserve Bank of San Francisco, Summer 1986; and Joel Huber, Consumer Perception of Credit Insurance on Retail Purchases, Monograph No. 13, Purdue University Credit Research Center, 1978. *Reprinted in* John M. Barron, Ph.D. & Michael E. Staten, Ph.D., Credit Insurance: Rhetoric and Reality, Monograph No. 30, p. 2-1, Purdue University Credit Research Center, 1994.
[v] Robert A. Eisenbeis and Paul R. Schweitzer, Tie-Ins Between the Granting of Credit and Sales of Insurance by Bank Holding Companies and Other Lenders, Staff Study 101, p. 49, Board of Governors of the Federal Reserve System, February 1979.
[vi] Anthony W. Cyrnak and Glenn B. Canner, Consumer Experiences with Credit Insurance: Some New Evidence, p. 18, Economic Review, Federal Reserve Bank of San Francisco, Summer 1986.
[vii] Id. at 7.
[viii] John M. Barron, Ph.D. & Michael E. Staten, Ph.D., Credit Insurance: Rhetoric and Reality, Monograph No. 30, p. 5-4, Purdue University Credit Research Center, 1994.
[ix] Id., at p. 2-6 and 6-7.
[x] John M. Barron, Ph.D. & Michael E. Staten, Ph.D., Credit Insurance: Rhetoric and Reality, Monograph No. 30, p. 7-8, Purdue University Credit Research Center, 1994.
[xi] See for example, North Carolina Statute 58-57-50, New York Regulation 27A Section 185.8, and California Statute 779.14.
[xii] Loss ratio is the percentage of premium paid out in claims.