

Highlights of Final Rules on Loan Originator Compensation and Steering

The final rules protect mortgage borrowers from unfair, abusive, or deceptive lending practices that can arise from loan originator compensation practices.

The new rules apply to all persons who originate loans, including mortgage brokers and the companies that employ them, as well as mortgage loan officers employed by depository institutions and other lenders.

The final rules, which apply to closed-end loans secured by a consumer's dwelling, will:

- Prohibit payments to the loan originator that are based on the loan's interest rate or other terms. Compensation that is based on a fixed percentage of the loan amount is permitted.
- Prohibit a mortgage broker or loan officer from receiving payments directly from a consumer while also receiving compensation from the creditor or another person.
- Prohibit a mortgage broker or loan officer from "steering" a consumer to a lender offering less favorable terms in order to increase the broker's or loan officer's compensation.
- Provide a safe harbor to facilitate compliance with the anti-steering rule. The safe harbor is met if:
 - The consumer is presented with loan offers for each type of transaction in which the consumer expresses an interest (that is, a fixed rate loan, adjustable rate loan, or a reverse mortgage); and
 - The loan options presented to the consumer include the following:
 - (1) the lowest interest rate for which the consumer qualifies;
 - (2) the lowest points and origination fees, and
 - (3) the lowest rate for which the consumer qualifies for a loan with no risky features, such as a prepayment penalty, negative amortization, or a balloon payment in the first seven years.

The final rules are effective April 1, 2011, to provide lenders and originators time to develop new business models, implement necessary changes to their systems, and train personnel.

The Dodd-Frank Wall Street Reform and Consumer Protection Act also restricts practices concerning loan originator compensation. The Reform Act includes provisions that are similar to the Board's final rules but also addresses other practices not covered by the final rules. The Board plans to implement the Reform Act provisions in a future rulemaking with opportunity for public comment.