



SunWestTM
Mortgage Company, Inc.
Mortgage Bankers Since 1980

Sun West Mortgage Company, Inc.



Since 1980

LOAN ORIGINATOR COMPENSATION

Final Rule

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Final Rule



Federal Reserve Board issued a Final Rule amending Truth in Lending Act (TILA) regulation (Regulation Z) addressing Loan Officer compensation.

Effective Date: All loans submitted or locked effective April 6, 2011.

Transactions Covered:

- All closed-end consumer credit transactions secured by first or subordinate liens on a dwelling
- Includes closed-end reverse mortgage transactions
- All owner occupancies (including second homes). Sun West further requires transactions involving investment properties to be compliant with Final Rule.
- All lien positions

Final Rule



Secondary Market Transactions:

Not affected by the Final Rule; however, closed loan correspondents must ensure compliance with the Final Rule.

HECM ARMs:

Exempt from the Final Rule being open-ended transactions.

Final Rule



Loan Originator: A person, with respect to a particular transaction, who for compensation or other monetary gain, or in expectation of compensation or other monetary gain, arranges, negotiates, or otherwise obtains an extension of consumer credit for another person.

Compensation: Includes payment made to Loan Originator (a natural person) and Mortgage Broker Companies (an entity). Also, applies to those brokers who close the loan in their name (table funding).

Includes:

- Wages, salaries, commissions
- Bonuses
- Services, trips, merchandise, prizes, etc.

Prohibitions of Final Rule



The Final Rule prohibits:

1. Basing loan originator compensation on loan terms or conditions, Loan Amount is an exception.
2. Compensating loan originator by both consumer and party other than consumer for same transaction (dual compensation).
3. Steering based on ability of loan originator to receive greater compensation, unless transaction is in the consumer's interest.

This Final Rule is only implementing the changes to an earlier Federal Rule and Dodd Frank changes are yet to be implemented.

Prohibition ONE



- Loan originator may NOT receive from anyone, directly or indirectly, any compensation in any amount based on any of transaction's terms or conditions.
- Both increasing and decreasing loan originator's compensation based on transaction's terms or conditions are prohibited.
- Varying of loan originator's compensation based on factors that serve as proxy for transaction's terms or conditions also prohibited.
- Any reasonable and bona fide charges to third party retained by loan officer are not considered compensation.

Prohibition ONE



Compensation may be based upon:

- Fixed percentage of amount of credit extended, i.e., loan amount.
 - Percentage cannot vary by each loan.
 - Minimum and maximum dollar amount caps on compensation are acceptable. Minimum caps encourage loans with small loan amounts.
- Loan originator's overall loan volume delivered to creditor (i.e., total dollar amount of credit extended or number of loans originated).
- An hourly rate of pay to compensate the originator for the actual number of hours worked. Hourly rate cannot change per loan.
- Flat fee.

Prohibition TWO



- If any loan originator receives compensation directly from consumer in transaction, he/she may NOT receive compensation, directly or indirectly, from any person other than consumer in connection with transaction.
- Hence, a loan originator may not be paid by both the borrower and creditor (or any other party) on the same transaction.

Prohibition THREE



- There is a safe harbor (protection) to demonstrate that steering prohibition was not violated. For each type of transaction in which consumer expresses interest, consumer is presented with loan options that include:
 - Loan with lowest interest rate.
 - Loan with lowest total dollar amount for origination points or fees and discount points.
 - Loan with lowest interest rate and no risky features such as neg-am, prepayment penalty, interest-only payments, or shared equity or appreciation.
- Broker must obtain loan options from at least 3 creditors with whom originator regularly does business. If Broker regularly does business with less than 3 creditors, options must be presented from all creditors.
- SWMC requires Anti-Steering Disclosure of Loan Options to be signed by the borrower and loan originator as part of Initial Disclosures.

Example 1



- **Can loan officer or broker lower commissions?**
- Borrower is originally quoted 5.0% rate. Loan officer or mortgage broker will receive standard 2% commission paid by creditor.
- To meet competition, loan officer or mortgage broker will lower commission by 0.5% and loan pricing is changed to 5% rate with 1.5% Commission paid by creditor.
- Allowed?

Example 1



- Not allowed. While pricing to consumer may be adjusted, (i.e. credit may be increased), compensation to loan originator may not increase or decrease based on loan pricing. i.e., loan terms.

Example 2



- **Can loan officer or broker credit toward closing costs?**
- Borrower is quoted 5.0% rate with 1 point origination fee and borrower will pay closing costs. Loan officer or mortgage broker will receive standard commission of 2% from creditor.
- To meet competition, loan officer or mortgage broker will still receive standard compensation of 2% from creditor, but loan officer or broker will pay closing costs of the consumer, either directly or through a credit, up to 0.5% of the loan amount.
- Allowed?

Example 2



Not Allowed.

Federal Reserve Board has confirmed that they consider this a reduction in the Loan Originator compensation (similar to Example 1) and is hence not allowed.

Example 3



- **Can broker commissions be reduced to meet high costs or HPML tests under Lender Paid Compensation?**
- Broker submits loan to creditor with standard mortgage broker fee of 2% being paid by creditor. Creditor determines combination of broker fee and creditor fees will trigger high cost loan law.
- Creditor does not make high cost loans and broker offers to reduce broker fee to 1.5% to allow loan to be made.
- Allowed?

Example 3



Not Allowed.

Federal Reserve Board has confirmed that they consider this a reduction in the Loan Originator compensation (similar to Example 1) and is hence not allowed.

Example 4



- For arranging mortgage loan, mortgage broker will receive \$1,000 from consumer and \$1,500 from creditor.
- Allowed?

Example 4



Not Allowed.

Dual compensation issue.

Example 5



- For arranging mortgage loan, mortgage broker will receive \$1,000 out of loan proceeds and \$1,000 directly from consumer, and no other compensation.
- Allowed?

Example 5



Allowed.

Payments to loan originator out of loan proceeds are considered to be compensation received directly from consumer. So loan originator may receive both payments, because only consumer is compensating loan originator.

Example 6



- For arranging a mortgage loan, mortgage broker will receive \$1,000 in compensation directly from consumer and \$1,000 in compensation from seller.
- Allowed?

Example 6



Allowed.

Seller concession is considered to be compensation received from consumer. Since both of the payments to the broker came from the consumer, the dual compensation prohibition is not violated.

However, if it was seller and lender paying \$1000 each in a transaction, it will be considered dual compensation as seller's contribution is treated the same as consumer's funds.

Sun West Rate Sheets



- SWMC will issue 2 types of rate sheets every morning and upon every price change:
 - Consumer Paid Rate Sheet
 - Lender Paid Rate Sheet

Consumer Paid Rate Sheet



This depicts the rates and prices offered under the approved loan program. The pricing is not adjusted for any compensation to the broker as broker compensation will be directly paid by the borrower at closing. Negative prices represents credit which can be applied toward the third party closing costs while a positive value in the pricing presents the amount owed by the borrower to Sun West as Discount Points.

As shown in the screenshot of the rate price table of a consumer paid rate sheet, 5.25% note rate offers a 1.298 credit to the borrower towards the third party closing costs while a rate of 4.75% presents a 0.405 discount point to the borrower.

Note: Base price must be adjusted for any pricing adjustments.

Interest Rate	30 Day	45 Day
5.750	-3.396	-3.146
5.625	-2.443	-2.193
5.500	-2.068	-1.818
5.375	-1.693	-1.443
5.250	-1.298	-1.048
5.125	-0.495	-0.245
5.000	-0.495	-0.245
4.875	0.005	0.255
4.750	0.405	0.655
4.625	3.018	3.268

Lender Paid Rate Sheet



This depicts the rates and prices offered under the approved loan program with prices adjusted for the pre-selected compensation plan. Negative prices reflect credit which can be applied toward the third party closing costs while a positive value in the pricing presents the amount owed by the borrower to Sun West as Discount Points.

As shown in the screenshot of the rate price table of a consumer paid rate sheet, 5.50 % note rate offers a 0.568 credit to the borrower toward the third party closing costs while a rate of 4.75% presents a 1.905 discount point to the borrower.

Note: Base price must be adjusted for any pricing adjustments.

Interest Rate	30 Day	45 Day
5.750	-1.896	-1.646
5.625	-0.943	-0.693
5.500	-0.568	-0.318
5.375	-0.193	0.057
5.250	0.202	0.452
5.125	1.005	1.255
5.000	1.005	1.255
4.875	1.505	1.755
4.750	1.905	2.155
4.625	4.518	4.768

How's GFE Affected?



- Block 1: This block continues to represent the total compensation received by the broker and lender.
 - Under Lender Paid Compensation, Block 1 on GFE should be the summation of Lender Paid Compensation (YSP), Underwriting Fee, Doc Prep Fee, and any other fee paid to the lender.
 - Under Consumer Paid Compensation, Block 1 on GFE should be the summation of Origination Fee, Processing Fee, Underwriting Fee, Doc Prep Fee, and any other fee paid to the lender.
- Block 2: This block represents the credit for the interest rate chosen.

Note: In case of a lender paid compensation model, this is equal to the total of broker compensation and credit/cost to the borrower.

GFE Example 1



Lender Paid Compensation – Forward Wholesale Loan

Loan Parameter	Value
Loan Amount	\$250,000
Underwriting Fee to Lender	\$1,000
Lender Paid Compensation	\$5,000
Borrower Credit on Lender Paid Rate Sheet (after all adjustments)	\$2,500

Your Adjusted Origination Charges	
1. Our origination charge This charge is for getting this loan for you.	\$6,000.00
2. Your credit or charge (points) for the specific interest rate chosen <input type="checkbox"/> The credit or charge for the interest rate of <input type="text"/> % is included in "Our origination charge." (See item 1 above.) <input checked="" type="checkbox"/> You receive a credit of \$ <input type="text" value="7,500.00"/> for this interest rate of <input type="text" value="4.50"/> %. This credit reduces your settlement charges. <input type="checkbox"/> You pay a charge of \$ <input type="text"/> for this interest rate of <input type="text"/> %. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.	-\$7,500.00
A Your Adjusted Origination Charges	\$ -1,500.00

GFE Example 2



Consumer Paid Compensation – Forward Wholesale Loan

Loan Parameter	Value
Loan Amount	\$250,000
Underwriting Fee to Lender	\$1,000
Consumer Paid Compensation	\$4,750
Borrower Credit on Consumer Paid Rate Sheet (after all adjustments)	\$750

Your Adjusted Origination Charges

<p>1. Our origination charge This charge is for getting this loan for you.</p>	\$5,750.00
<p>2. Your credit or charge (points) for the specific interest rate chosen</p> <p><input type="checkbox"/> The credit or charge for the interest rate of <input type="text"/> % is included in "Our origination charge." (See item 1 above.)</p> <p><input checked="" type="checkbox"/> You receive a credit of \$ <input type="text" value="750.00"/> for this interest rate of <input type="text" value="5.0"/> %. This credit reduces your settlement charges.</p> <p><input type="checkbox"/> You pay a charge of \$ <input type="text"/> for this interest rate of <input type="text"/> %. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.</p>	-750.00
A Your Adjusted Origination Charges	\$ 5,000.00

GFE Example 3



Lender Paid Compensation –HECM Wholesale Loan

Loan Parameter	Value
Loan Amount	\$250,000
Origination Fee to Lender	\$1,000
Lender Paid Compensation	\$5,000
Borrower Credit on Lender Paid Rate Sheet (after all adjustments)	\$2,500

Your Adjusted Origination Charges	
<p>1. Our origination charge This charge is for getting this loan for you.</p>	\$6,000.00
<p>2. Your credit or charge (points) for the specific interest rate chosen</p> <p><input type="checkbox"/> The credit or charge for the interest rate of <input type="text"/> % is included in "Our origination charge." (See item 1 above.)</p> <p><input checked="" type="checkbox"/> You receive a credit of \$ <input type="text" value="7,500.00"/> for this interest rate of <input type="text" value="4.50"/> %. This credit reduces your settlement charges.</p> <p><input type="checkbox"/> You pay a charge of \$ <input type="text"/> for this interest rate of <input type="text"/> %. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.</p>	-\$7,500.00
A Your Adjusted Origination Charges	\$ -1,500.00

GFE Example 4



Consumer Paid Compensation – HECM Wholesale Loan

Loan Parameter	Value
Loan Amount	\$250,000
Origination Fee to Lender	\$0
Consumer Paid Compensation	\$4,000
Borrower Credit on Consumer Paid Rate Sheet (after all adjustments)	\$1,000

Your Adjusted Origination Charges	
<p>1. Our origination charge This charge is for getting this loan for you.</p>	\$4,000.00
<p>2. Your credit or charge (points) for the specific interest rate chosen</p> <p><input type="checkbox"/> The credit or charge for the interest rate of [] % is included in "Our origination charge." (See item 1 above.)</p> <p><input checked="" type="checkbox"/> You receive a credit of \$ 1,000.00 for this interest rate of 5.03%. This credit reduces your settlement charges.</p> <p><input type="checkbox"/> You pay a charge of \$ [] for this interest rate of []%. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.</p>	-\$1,000.00
A Your Adjusted Origination Charges	\$ 3,000.00

GFE Example 5



Lender Paid Compensation – Forward Wholesale with Discount Point

Loan Parameter	Value
Principal Balance	\$250,000
Underwriting Fee to Lender	\$3,000
Lender Paid Compensation	\$3,000
Borrower Cost on Lender Paid Rate Sheet (after all adjustments)	\$2,000

Your Adjusted Origination Charges	
<p>1. Our origination charge This charge is for getting this loan for you.</p>	\$6,000.00
<p>2. Your credit or charge (points) for the specific interest rate chosen</p> <p><input type="checkbox"/> The credit or charge for the interest rate of <input type="text"/> % is included in "Our origination charge." (See item 1 above.)</p> <p><input checked="" type="checkbox"/> You receive a credit of \$ <input type="text" value="3,000.00"/> for this interest rate of <input type="text" value="5.00"/> %. This credit reduces your settlement charges.</p> <p><input type="checkbox"/> You pay a charge of \$ <input type="text"/> for this interest rate of <input type="text"/> %. This charge (points) increases your total settlement charges. The tradeoff table on page 3 shows that you can change your total settlement charges by choosing a different interest rate for this loan.</p>	-\$3,000.00
A Your Adjusted Origination Charges	\$ 3,000.00

Mortgage Broker Requirements



To prevent any delays on the submission of your loans to the underwriter, please make sure:

- ✦ Your Addendum to the agreement has been signed and submitted to Sun West.
- ✦ Your Compensation Plan Exhibit has been filled up, signed, and submitted to Sun West.
- ✦ A copy of your Loan Origination Compensation policies and procedures has been submitted to Sun West.

How's Closed Loans Affected?



- By submitting a loan to Sun West for purchase, Correspondents represent and warrant compliance with new Loan Officer Compensation guidelines.
- SWMC purchase reviewer would review the loan file to determine compliance with Dual Compensation prohibition of the Final Rule. If the any document in the file presents the payment of both YSP and Origination Fee, the loan doesn't meet the Dual Compensation requirements and the loan will be rejected for purchase.
- Anti-Steering Disclosure of Loan Options is a mandatory requirement for all closed loans with application date on or after April 6, 2011, only for loans originated by a TPO.

Questions?



- **Questions:** Can Loan Originator lower Consumer Paid Compensation to meet competition in the market?
- **Answer:** Yes.

- **Questions:** Can the Mortgage Broker switch the compensation program from Consumer paid to Lender Paid and vice versa, without approval from Sun West?
- **Answer:** No.

- **Questions:** Is lender charging underwriting fee or origination fee to the borrower on a wholesale loan makes it a consumer-paid transaction?
- **Answer:** No, the rules only define a transaction based on fees paid to the loan originator.