

Loan Originator Compensation Rule

The Fed advised us yesterday that in borrower paid transactions, the loan originator, who is an employee of the mortgage brokerage firm, cannot be paid a commission or other compensation tied to a specific transaction. See Fed Comment Section 36 (d))(2)-1 below. We have bolded the key sentences.

Compensation in connection with a particular transaction. See rule at:
<http://edocket.access.gpo.gov/2010/pdf/2010-22161.pdf>

Under § 226.36(d)(2), if any loan originator receives compensation directly from a consumer in a transaction, no other person may provide any compensation to a loan originator, directly or indirectly, in connection with that particular credit transaction. See comment 36(d)(1)–7 discussing compensation received directly from the consumer. **The restrictions imposed under § 226.36(d)(2) relate only to payments, such as commissions, that are specific to, and paid solely in connection with, the transaction in which the consumer has paid compensation directly to a loan originator. Thus, payments by a mortgage broker company to an employee in the form of a salary or hourly wage, which is not tied to a specific transaction, do not violate § 226.36(d)(2) even if the consumer directly pays a loan originator a fee in connection with a specific credit transaction.** However, if any loan originator receives compensation directly from the consumer in connection with a specific credit transaction, neither the mortgage broker company nor an employee of the mortgage broker company can receive compensation from the creditor in connection with that particular credit transaction.

In lender paid transactions, mortgage broker employees (originators) may be paid a commission or other compensation on specific loans as long as the compensation is not based on the terms or conditions of the loan.

Please contact your local chapter of the Association of Mortgage Professionals or (NAMB) <http://www.namb.org/namb/Default.asp> for additional information and guidance.