



Home Savings of America

LO Compensation
Wholesale
Safe Harbor and GFE Scenarios

The Rule Summary

Loan Department



The Rule amends Regulation Z and imposes three prohibitions on loan originator compensation

A quick review...

1. Basing loan originator compensation on loan terms or conditions with the exception of the loan amount.
2. Compensation of a loan originator by both a consumer and any other party for same transaction. (No dual compensation).
3. Steering/directing a consumer to a particular loan product based on the fact that the loan originator will receive greater compensation from a lender.

Compliance

Loan Department

Record Retention Requirements

For a period of 2 years after the date disclosures are required to be made or action is required to be taken, a lender must maintain and make available...

- A record of the Compensation Agreement in effect on the date of the rate lock
- The amount of compensation paid to a loan originator in connection with a covered transaction
- **Anti-Steering/Safe Harbor Loan Options forms (with the lender's rate sheet)**
- Note: Compensation will be paid per the Agreement in effect on the date the retail loan application was received by HSOA.



Prohibition #3 - Anti-Steering

Lender Paid Broker Compensation



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A loan originator (LO) may not direct or steer a consumer to consummate a transaction based on the fact that the LO will receive greater compensation from a lender

unless the consummated transaction is in the consumer's interest.

Steering is only evaluated for closed loans.

Prohibition #3 - Anti-Steering

Lender Paid Broker Compensation



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How do you know if a loan that is to be closed is “***is in the consumer’s interest***”?

- A loan transaction is compared to other possible loan offers available from the LO for which the consumer ***likely qualifies***.
- ***Possible loan offers or options*** are those available that can be obtained from a lender with which the LO ***regularly does business***.

Prohibition #3 - Anti-Steering

Lender Paid Broker Compensation



Possible Loan Offers...

- Is not an offer of credit from a lender
- Is a possible option based on the lenders products and program guidelines

Likely qualifies...

- Based on the information provided by the borrower, the lender's credit guidelines and the lenders rate sheets (credit terms)

Regularly does business...

- The Loan Originator has a compensation agreement with the lender;
- The lender has funded 1 or more loans in the previous calendar month submitted by the LO; or
- The lender has funded 25 or more loans previous 12 calendar months submitted by the LO.

Prohibition #3 - Anti-Steering

Lender Paid Broker Compensation



Safe Harbor

- To facilitate compliance with the anti-steering rule, the rule includes a ***safe harbor***.
- If the Loan Transaction comes within the safe harbor, the LO will know that they are not in violation of the anti-steering prohibition.
- To come within the safe harbor, the LO must present the borrower with ***loan options for each “type” of transaction*** in which the consumer has expressed an interest.

Anti-steering / Safe Harbor

Lender Paid Broker Compensation



Safe Harbor

For each type of transaction (Fixed Rate, ARM & Reverse Mortgage) in which the consumer expresses an interest, provide the following options in writing:

1. A loan with the lowest interest rate
2. A loan with the lowest total dollar amount for origination points/fees and discount points
3. A loan with the lowest rate *without* negative amortization, a prepayment penalty, Interest only payments, a balloon in the first 7 years, a demand feature, shared equity or shared appreciation

You may not need to provide 3 loan options as long as the three criteria listed above are satisfied.



Anti-steering / Safe Harbor

Lender Paid Broker Compensation



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Safe Harbor - New HSOA Form


- ***Anti-Steering/Safe Harbor Loan Options form*** and the lender's rate sheet should be in your files as evidence of compliance with the Anti-steering rule.
- The lender names and rates sheets do not have to be provided to the borrowers.

Remember the benefit...

- By providing bona fide options that satisfy the Safe Harbor rules you are protecting yourself from allegations of steering.

Anti-steering / Safe Harbor

Lender Paid Broker Compensation




Loan Department

Examples...

1. Lender A and lender B offer a loan with exact same loan terms and conditions. Lender A pays 2% and lender B pays 1.75%.
 - *It is acceptable to select the loan from lender A with greater compensation because the terms and conditions offered the borrower are exactly the same.*
2. Loan options from 3 lenders are provided. The loan selected is the loan with the lowest amount of compensation.
 - *When the loan option with the least compensation is selected, you are “deemed” to be in compliance with the anti-steering rule. However, you are not required to select the loan option with the lowest amount of compensation.*

Anti-steering / Safe Harbor

Lender Paid Broker Compensation



Loan Department


Examples...

3. Loan options from 3 lenders are provided. The loan selected is has a higher interest rate than the other loan options.
 - *A borrower may be looking for a loan option where some of the closing costs are provided from premium points. In this case, a more costly loan (interest rate) is in the borrowers interest because they required assistance with closing costs.*

4. If a LO regularly does business with one lender, how can they satisfy the safe harbor loans options requirements?
 - *A LO/Branch is not required to develop new lender relationships in order to satisfy the safe harbor loan option requirements. Loan options can be provided from the one lender with which the LO regularly does business.*

Anti-steering / Safe Harbor

Lender Paid Broker Compensation



Examples...

5. Is the name of the lender for the loan options required to be provided to the borrower?
 - *No the lender's name or the lender's rate sheet does not have to be provided to the borrower.*

6. *What documentation does HSOA require?*
 - *HSOA requires the new form, Anti-steering/Safe Harbor Options Form and the lender's rate sheet to be included with the HSOA image documents.*

Anti-steering / Safe Harbor

Lender Paid Broker Compensation



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Examples...

7. Will the lenders I do business with require a copy of the loan options I provided to the borrowers?
 - *Instead of a copy of the loan options, many lender's will require that you sign and submit a statement certifying that you have followed the anti-steering/safe harbor requirements.*
 - *Check with your lenders.*

8. When do I provide the options?
 - *Generally speaking you offer the options at the beginning of the process. Most lenders will assume that when you submit the loan application package to them, you have already provided the options to the borrower.*

Anti-steering / Safe Harbor

Lender Paid Broker Compensation




Loan Department

Examples...

9. Do I need a written offers from lender for the Safe Harbor Options.
 - *Written offers from lenders are not required. A possible loan option is an offer that a lender likely would make based on the loan programs, credit guidelines and rate sheets available to the LO.*
 - *The LO is expected to believe in good faith that based on the information provided by the borrower and the lender information, the borrower is likely to qualify for the loan option.*
 - *HSOA requires the LO to complete the Anti-steering/Safe Harbor form in writing, review it with the borrower and maintain it and the lenders' rate sheets in our loan image file as evidence of compliance.*

Anti-steering / Safe Harbor

Lender Paid Broker Compensation



Examples...

10. Review the three options - and clarify how to determine the lowest Interest Rate?
- *A loan with the lowest interest rate*
 - *A loan with the lowest total dollar amount for origination points/fees amount of points and fees*
 - *A loan without any risk factors (negative amortization, prepayment fee , balloon payment etc.)*

To identify the loan with the lowest interest rate:

- *For any loan that has an initial rate fixed for at least five years, use the initial rate that would be in effect at closing.*
- *For a loan with an initial rate that is not fixed for at least five years, use the fully-indexed rate that would be in effect at closing (without regard to any initial start rate)*
- *For a step-rate loan, use the highest rate that would apply during the first five years.*

The GFE per the RESPA 2010 Rules is still with us...

RESPA 2010 requires the disclosure of compensation paid to Mortgage Brokers - by borrowers or by lenders.

The TILA Regulation Z, LO Compensation Rule provides two compensation methods for brokers:

- **Borrower Paid Broker Compensation**
- **Lender Paid Broker Compensation**

GFE Scenarios

Wholesale Borrower Paid Broker Compensation



How do the new TILA Reg Z rules impact the GFE for
Borrower Paid Broker Compensation?

The broker's compensation and fees negotiated between the borrower and the broker are disclosed in Block 1 of the GFE

YSP/Premium Points (credit to the borrower) must be disclosed in Block 2 of the GFE and YSP/Premium Points can be applied to:

- HSOA Admin Fee
- 3rd party Fees (GFE Block 3-11)
- Prepaid Interest
- Deposit to an escrow/impound account
- **Note:** YSP/Premium Points cannot be applied to any broker fees.

Discount Points must be disclosed in Block 2 of the GFE.

GFE Scenarios

Wholesale Borrower Paid Broker Compensation



Borrower Paid Broker Compensation

Loan Department

GFE Block 1

- Broker Compensation and any other broker fees negotiated between the broker and the borrower
- HSOA Admin Fee
- GFE Block 2
 - A credit for the any Premium Pricing, when applicable (a negative value)
-- OR --
 - A charge for HSOA Discount Points, when applicable (a positive value)

GFE Scenarios

Wholesale Lender Paid Broker Compensation



How do the new TILA Reg Z rules impact the GFE for **Lender Paid Broker Compensation?**

The broker's compensation – per the HSOA/Broker Compensation Agreement – is disclosed in Block 1 and Block 2 of the GFE.

YSP/Premium Points (credit to the borrower) must be disclosed in Block 2 of the GFE and YSP/Premium Points can be applied to:

- HSOA Admin Fee
- 3rd party Fees (GFE Block 3-11)
- Prepaid Interest
- Deposit to an escrow/impound account
- **Note:** YSP/Premium Points cannot be applied to any broker fees.

Discount Points must be disclosed in Block 2 of the GFE.

GFE Scenarios

Wholesale Lender Paid Broker Compensation



Lender Paid Broker Compensation

GFE Block 1

- Broker Compensation - per the HSOA Broker Compensation Agreement
- HSOA Admin Fee
- No other fees are allowed in Block 1

GFE Block 2

- A credit for the Broker Compensation - per the HSOA Broker Compensation Agreement (a negative value)
- A credit for the any Premium Pricing, when applicable (a negative value)
-- OR --
- A charge for HSOA Discount Points, when applicable (a positive value)

***The Broker Compensation in Blocks 1 and 2
must always be equal.***

**Home Savings of America
Wholesale GFE Scenarios, etc...**

...Let go of the old concept of "YSP". Rates are listed with "Premium Pricing/Points" or "Discount Points". Premium and Discount points apply to the borrower; Premium Points can be used by the borrower to pay 3rd party fees; Discount points are paid by the borrower.

Wholesale - Borrower Paid Broker Compensation - Is a "No Lender Fee" or a "No Cost" Loan possible?

No Lender Fee Loan: Select a line a pricing with sufficient Premium Points to cover the HSOA Admin Fee
No Cost Loan: Select a line a pricing with sufficient Premium Points to pay the HSOA Admin Fee and all 3rd Party fees.

Note: With Borrower Paid Broker Comp, the borrower will still pay Broker fees - unless the seller makes a contribution. A seller's contribution is considered borrower's funds and can be used to pay broker fees with this Comp method.

Wholesale - Lender Paid Broker Compensation - Is a "No Lender Fee" or a "No Cost" Loan possible?

No Lender Fee Loan: Select a line a pricing with sufficient Premium Points to pay the HSOA Admin Fee
No Cost Loan: Select a line a pricing with sufficient Premium Points to pay the HSOA Admin Fee and all 3rd Party fees.

eHome Tips

Rates/pricing displayed in Green = Premium Pricing/Points
Rates/pricing displayed Red = Discount Points

Borrower Paid Broker Comp

Premium Pricing/Points cannot be used to pay any Broker fees. (GFE Block 1 Broker Fees)
Premium Pricing/Points can be used to pay HSOA Admin Fee and 3rd party Fees (GFE blocks 3-11)
Excess Premium Pricing/Points can be applied to Prepaid Interest and the initial Escrow/Impound Deposit
Discount Points represent the cost of the rate and are paid by the borrower.

Lender Paid Broker Comp

To make pricing easy - the Lender Paid column reflects the Broker's pricing taking into consideration the broker's Comp Agreement with HSOA
The Premium or the Discount reflect the pricing to the borrowers.

Premium Pricing/Points cannot be used to pay any Broker fees. (GFE Block 1 Broker Fees)
Premium Pricing can be used to pay HSOA Admin Fee and 3rd party Fees (GFE blocks 3-11)
Excess Premium Pricing/Points can be applied to Prepaid Interest and the initial Escrow/Impound Deposit
Discount Points represent the cost of the rate and are paid by the borrower.

**Home Savings of America
Wholesale GFE Scenarios, etc...**

Rate Sheet	
4.625	1.282
5.250	(2.849)

GFE	HUD-1
Block 1	801
Block 2	802
Line A	803
Line B	various
A + B	various

Borrower Paid Broker Comp	
Scenario 1	Scenario 2
Premium Points	Discount Points
Rate: 5.250 (2.849)	Rate: 4.625 1.282
Loan: \$100,000	Loan: \$100,000
Orig \$1,000	Orig \$1,000
Proc Fee \$500	Proc Fee \$500
HSA Admin \$995	HSA Admin \$995
Premium Pts: \$2,849	Discount Pts: \$1,282
\$2,495.00	\$2,495.00
-\$2,849.00	\$1,282.00
-\$354.00	\$3,777.00
\$6,000.00	\$6,000.00
\$5,646.00	\$9,777.00
Block 2, Box 2 - Credit	Block 2, Box 3 - Charge
Premium Points	Discount Points
\$2,849	\$1,282

Lender Paid Broker Comp	
Scenario 3	Scenario 4
Premium Points	Discount Points
Rate: 5.250 (0.849)	Rate: 4.625 3.282
Loan: \$100,000	Loan: \$100,000
LPBC: 2% \$2000	LPBC: 2% \$2000
HSA Admin \$995	HSA Admin \$995
Premium Pts: \$849	Discount Pts: \$3,282
\$2,995.00	\$2,995.00
-\$2,849.00	\$1,282.00
\$146.00	\$4,277.00
\$6,000.00	\$6,000.00
\$6,146.00	\$10,277.00
Block 2, Box 2 - Credit	Block 2, Box 3 - Charge
LPBC + Premium Points	LPBC + Discount Points
-\$2,000 + -\$849 = -\$2,849	-\$2,000 + \$3,282 = \$1,282

Block 2, HUD-1 Line 802 can be a credit (a negative value) a charge (a positive value) or the net of a credit and a charge
When the net result is negative, Box 2 (credit) is checked. When the net result is positive, Box 3 (charge) is checked

Fees listed in the scenarios are used to illustrate GFE logic and are not HSOA's fee policy

Scenarios 1, 2 - Borrower Paid Broker Comp

1. The GFE can't be used to determine if the Premium is applied to allowable fees - per Reg Z/LO Comp Rules.
The LO comp math works this way: The Premium pays the HSOA Admin Fee and some of the 3rd party fees. (\$995 + \$1,854 = \$2,849)
2. Borrower pays all Broker Fees, HSOA Admin Fee, HSOA Discount, and 3rd party fees

Scenarios 3, 4 - Lender Paid Broker Comp (Lender paid broker comp included in HSOA wire to closing/settlement agent)

3. Premium Points (\$849) pays some of the HSOA Admin Fee.
4. Borrower pays HSOA Admin Fee, HSOA Discount, and 3rd party fees

Questions?

Loan Department

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