



## Loan Originator (LO) Compensation

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### II. Purpose, Coverage and Overview; “Loan Originator” and “Compensation” Defined

# Major Components of Rule

- **Prohibits steering a consumer into a loan that generates greater compensation for the loan originator, unless the consummated loan is in the consumer's interest.**
- **Prohibits loan originator compensation based on the terms of a mortgage transaction or a proxy for a transaction term.**
- **Prohibits dual compensation (i.e., loan originator being compensated by both the consumer and another person, such as a creditor).**
- **Prohibits mandatory arbitration clauses and waivers of certain causes of action.**

## Major Components of Rule Con't.

- **Prohibits the financing of credit insurance (this prohibition does not include mortgage insurance).**
- **Requires depository institutions have written policies and procedures.**
- **Imposes qualification requirements on loan originators.**
- **Requires name and NMLSR identification information of loan originator with primary responsibility appear on the credit application, note, and security instrument.**
- **Permits, within limits, paying loan originators compensation based on profits derived from a bank's mortgage-related activities. ("bank" includes an affiliate of the bank and/or a business unit within the bank or affiliate).**

# Key Compensation Prohibition

**No loan originator can receive and no person can pay to a loan originator, directly or indirectly...**

- **Compensation in an amount that is based on terms of transactions (or proxies for terms of transactions):**
  - a single loan originator, or
  - multiple loan originators (limited exception: some profits-based compensation).

# Covered Transactions

**A covered transaction is a consumer-purpose, closed-end transaction secured by a dwelling, whether by a first or subordinate lien.**

- **It includes reverse mortgages, condominiums, and cooperatives.**

# Loan originator

**Any person who, for or in expectation of compensation or other monetary gain, engages in certain specified activities, including:**

- **Taking an application;**
- **Offering particular credit terms, or referring a consumer to a particular loan originator; or**
- **Assisting a consumer in obtaining or applying for a covered mortgage loan by advising on specific credit terms.**

# Taking an Application

**A person takes an application by:**

- 1. Filling out a consumer application;**
- 2. Inputting the information into an online or other automated system; or**
- 3. Taking information from the consumer over the phone to complete the application.**

## Offering Terms

**A person offers terms of a mortgage loan by:**

- 1. Presenting particular credit terms for consideration by a consumer; or**
- 2. Recommending or referring a consumer to a particular loan originator, creditor, credit terms, or credit product (based on information obtained from the consumer).**

## Assists a Consumer by...

### **A person assists a consumer with a residential mortgage loan by:**

- 1.** Advising on specific loan terms
- 2.** Preparing loan packages, or
- 3.** Collecting information on behalf of the consumer.

# Who Are Not Loan Originators?

## **Categories of people generally not loan originators include:**

- A person who, acting on behalf of a loan originator, engages in loan processing activities (for example, a processor, underwriter, or closer);
- A servicer or a servicer's employee (unless loan origination activities are performed in connection with a refinancing; renegotiating or modifying an existing mortgage is not a loan originator activity); and
- A person who performs purely administrative or clerical tasks on behalf of a loan originator or provides a mortgage application form to a consumer or returns the completed form to the creditor or originator.

# Scenario #1

I'm sorry, but I  
Sure. Here is an application. Complete it when you have time and bring it back  
and bring it back  
give it to Sarah, and  
your options.  
meet with  
That sounds great.  
Thank you for all of your  
help.  
When you return it I will  
be happy to discuss



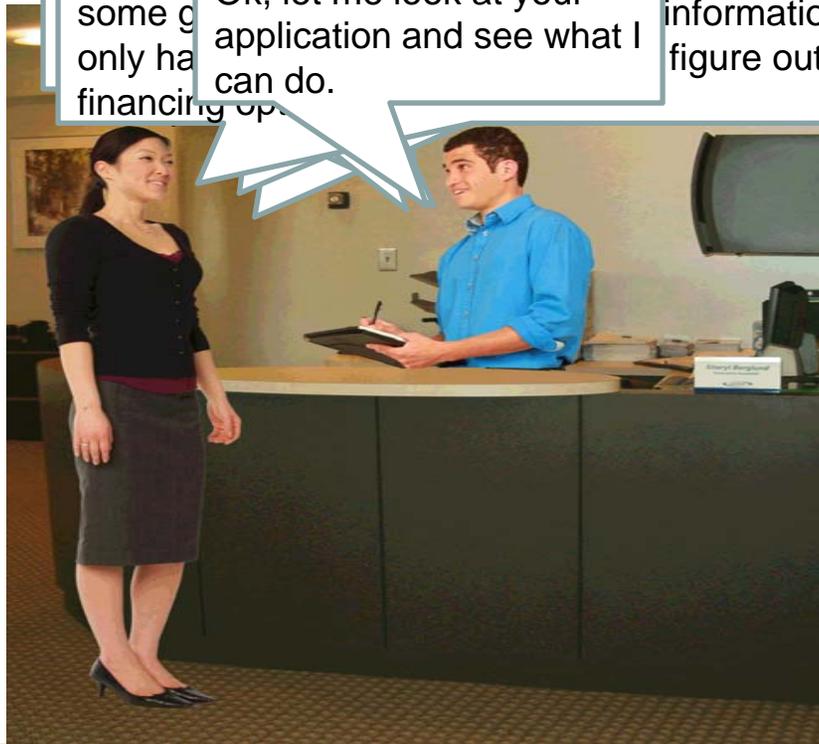
# Scenario #2

I really appreciate all your help yesterday. I

I am not looking for someone to qualify me. I just need some help with the terminology on the application and some general information. Please, I

only have a few minutes. Can you figure out my financing options for me?

Ok, let me look at your application and see what I can do.



# Scenario #3

Good news, after analyzing your application, credit report, and employment history we will be able to offer you a 30-year fixed loan at a rate of 4.25 percent. Again, That is great news. You just made I can handle my day. tomorrow. s

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# Loan Originator Test

## **Two part loan originator test:**

- 1. Person engages in loan originator activity; and**
- 2. Person performs activity for, or in expectation of, compensation.**

# Individual Loan Originator and Loan Originator Organization

- **Individual Loan Originator:** A natural person who meets the definition of a loan originator (by engaging in loan originator activity)
- **Loan Originator Organization:** Any loan originator who is not an individual loan originator (e.g., trusts, sole proprietorships, partnerships, corporations)
  - For purposes of the rule's compensation provisions, banks become loan originator organizations when they broker loans or when they don't use their own resources to fund loans (commonly referred to as "table funding")
  - For purposes of the rule's qualification and unique identifier provisions, banks are always loan originator organizations in all transactions

# Compensation

**Compensation includes:**

- **Salaries**
- **Commissions**
- **Stocks**
- **Financial or similar incentives (e.g., bonuses or awards of trips or merchandise)**
- **Loan fees retained by the loan originator (regardless of fee label, e.g., “processing fee”)**

**Compensation does not include bona fide and reasonable charges passed onto a third party, or paid to a loan originator for services performed that are not loan origination activities (e.g., title insurance)**