

Lenders Compliance Group

Monday, October 10, 2011

Loan Originator Compensation: NEW Examiner Guidelines

On October 7, 2011, the [Multi-State Mortgage Committee \(MMC\)](#), a ten-state representative body created by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR), issued [examiner guidelines](#) (dated 10/6/11) as a tool for consistent implementation of the Federal Reserve Board's final rules for closed-end credit under Regulation Z.

The MMC guidelines (Examiner Guidelines), apply to residential mortgage loans, are intended to assist state regulators of non-depository mortgage loan originators and creditors in their review of licensee policies and practices for compliance with the Federal Reserve Board's final rule (Rule).

To date, the MMC [State Nondepository Examiner Guidelines for Regulation Z - Loan Originator Compensation Rule](#) constitutes the most explicit and comprehensive analysis of the Loan Compensation Rule, which placed restrictions to protect consumers against the unfairness, deception, and abuse that can arise with certain loan origination compensation practices, generally prohibits payments to loan originators based on loan terms and conditions, eliminates dual compensation to originators by consumers and any other person, and prohibits "steering" consumers to loans to receive greater compensation.

Please feel free to contact us at any time to discuss our loan originator compensation audit and examination reviews.

Preparation is Protection

KNOWLEDGEBASE

FAQs Outline - Loan Originator Compensation
400 FAQs (128 Pages)

PREPARATION

Independent Audit: MMC Examiner Guidelines

Task Force

The [Task Force on Consumer Compliance of the Federal Financial Institutions Examination Council](#) (FFIEC) has approved interagency examination procedures for Regulation Z - Truth in Lending, including the Rule.

These guidelines were developed by the MMC to provide examiners in the field with a standardized set of procedures for evaluating basic compliance with the rule. The Examiner Guidelines state that the guidelines themselves are not intended to be binding or restrictive on a state's autonomous determination and sovereign authority to take supervisory action.

These revised procedures supersede the Regulation Z interagency examination procedures. Although limited, for uniformity and consistency, the interagency procedures are included within the Examiner Guidelines.

These Examiner Guidelines supplement the interagency procedures and are intended to assist state regulators of nondepository mortgage loan originators and creditors in standardized and uniform reviews of the Rule.

Setting a Standard

These Examiner Guidelines clearly are intended to provide state examiners with a **standard set of examination tools** to determine institution compliance with certain "bright line" areas of the Rule.

The actual Rule is both complex and nuanced and the Examiner Guidelines state that the subject guidelines are not intended, nor able to provide instruction for every scenario that may arise.

The purpose of these guidelines is to provide the examiner with a standardized set of procedures for reviewing institutions for basic compliance with the Rule. The examiner should

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consider the facts of each unique situation and apply judgment appropriately.

Three Scopes and Three Modules

1. **Full Scope:** Pre-exam completion of Modules 2 and 3 followed by completion of Module 1 through documentation review, onsite transaction testing, and interviews of institution staff or other parties.

2. **Limited Scope:** Completion of Module 1, excluding transaction testing and interviews, based on the institution's responses to Modules 2 and 3.

3. **Limited Scope with offsite testing:** Combine the Limited Scope approach with an offsite sampling of transaction documents and/or telephone interviews of institution staff or other parties.

Module 1 consists of questions intended to guide the examiner for specific review.

Much of the checklist can be completed from a thorough, off-site review of the institution's responses to **Modules 2 and 3**.

Other sections require transaction-level review and interviews of institution staff and others.

Outline

- I. INTRODUCTION
- II. BACKGROUND
- III. DEFINITIONS
- IV. REVISED INTERAGENCY EXAMINATION PROCEDURES
- V. MMC GUIDELINES FOR EXAMINATION OF THE REGULATION Z LOAN ORIGINATOR COMPENSATION RULE

APPLICATION AND COVERAGE

MODULE 1 - EXAMINER CHECKLIST

A. REVIEW OF POLICIES AND PROCEDURES

B. COMPENSATION

C. STEERING

D. OPERATIONAL MANAGEMENT

MODULE 2 - INSTITUTION INFORMATION REQUEST

MODULE 3 - INSTITUTION QUESTIONNAIRE

APPENDIX A to the STATE NONDEPOSITORY EXAMINER GUIDELINES FOR REGULATION Z - LOAN ORIGINATOR COMPENSATION RULE

APPENDIX B - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM - Revised Interagency Examination Procedures for Regulation Z (3/18/11)

LIBRARY



Multistate Mortgage Committee (MMC)

State Nondepository Examiner Guidelines for Regulation Z Loan Originator Compensation Rule

October 6, 2011



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