



MORTGAGE BANKERS ASSOCIATION

October 17, 2018

The Honorable Mick Mulvaney
Acting Director
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

Dear Acting Director Mulvaney,

The undersigned member companies of the Mortgage Bankers Association urge the Bureau of Consumer Financial Protection (BCFP or Bureau) to make changes to its Loan Originator Compensation (LO Comp) rule necessary to help consumers and reduce regulatory burden. Having recently concluded the Request for Information process, the Bureau is likely considering various regulatory actions. We believe changes to the LO Comp rule should be the Bureau's top priority.¹

The LO Comp rule causes serious problems for industry and consumers due to its inflexible prohibitions on adjusting compensation and its amorphous definition for what constitutes a proxy for a loan's term or conditions. The rule harms the efficiency of the mortgage loan market by limiting lenders' ability to compete and consumers' ability to shop. Three important changes could address these problems:

- 1. Permit voluntary reductions by loan officers to their compensation in response to competition.** This change would significantly enhance competition in the marketplace, benefiting lenders who can compete for more loans and consumers who receive a lower cost loan offer. Currently a lender will be forced to decide against making a loan if doing so is unprofitable due to the requirement to pay the loan originator full compensation for a discounted loan. For the consumer, the result is a more expensive loan or the inconvenience and expense of switching lenders in the midst of the process. Impeding shopping and discouraging price competition is directly contradictory to the stated aims of the Bureau's Know Before You Owe / RESPA-TILA Integrated Disclosure rulemaking which seeks to encourage shopping and empower the consumer to negotiate.
- 2. Allow reductions to compensation when the originator makes an error.** Greater loan originator accountability will reduce errors and encourage compliance with regulatory requirements and company policy, leading to a safer, more transparent market for consumers. The present rule prevents creditors from holding their employees financially accountable for mistakes or deviations from company policy on a particular loan. This is contrary to the central statutory premise underlying the LO Comp rule — that compensation is the most effective way to incent loan originator behavior.
- 3. Allow variable compensation for loans made under housing finance agency (HFA) programs.** The LO Comp rule forbids varying compensation for different loan types or products, including HFA loans. HFA programs are particularly important for underserved borrowers such as first-time

¹ A more detailed discussion of specific changes to the LO Comp rule can be found in MBA's response to the Bureau's Adopted Rulemaking RFI.



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homebuyers and low- to moderate-income families who often encounter difficulty accessing credit elsewhere. These programs provide much needed access to credit, often along with housing counseling and financial education, encouraging responsible homeownership in a well-regulated manner. However, the robust underwriting, tax law-related paperwork, yield restrictions, and other program requirements make HFA loans more expensive to produce. Covering these expenses is particularly difficult given many HFA programs include limits on interest rates and fees.

In addition to these changes, the Bureau should simplify the LO Comp rule. The rule broadly prohibits compensation based on loan terms or proxies for terms while providing a short list of permissible compensation factors. The Bureau should explore ways to clarify the regulation, including by specifying a clear “bright-line” list of impermissible compensation factors rather than the current vague and complicated “proxy for a term” analysis.

The ambiguous current framework encourages widely varying interpretations of the rule. This has the perverse effect of disadvantaging those companies that hew closest to the Bureau’s rule. Industry and consumers would be better served with clear, easy-to-follow bright-line rules. The undersigned companies welcome the opportunity to discuss this letter through the Mortgage Bankers Association.

Respectfully,

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