



## GUIDE TO UNDERSTANDING NEW RULES FOR LOAN ORIGINATOR COMPENSATION

Effective April 1, 2011, the Federal Reserve is implementing new regulations impacting broker compensation and providing for an anti-steering provision under the Truth in Lending Act (TILA). As a valued client of Nations Direct Mortgage (“NDM”), we have prepared this summary of the new compensation requirements to help you understand and comply with the new rule.

### **Key Elements of the Rule**

You can be paid by either NDM or the borrower, but not by both in the same transaction. For each loan transaction, you must select whether you will be paid by the borrower (“Borrower Paid”) or by NDM (“Lender Paid”). You will indicate this choice on the Loan Submission Form, but you can make changes to how you will be compensated up until the loan is locked.

### **Borrower Paid Compensation**

When you choose to be compensated by the borrower(s), you will negotiate your fees and origination points directly with the borrower. Please consider the following when making your determination:

- Your fees must comply with State and Federal regulations and cannot exceed any high-cost or Agency limits.
- The borrower can pay your compensation by either bringing cash to the closing table or by financing your compensation into the loan transaction.
- The borrower can choose a rate that will allow them to receive a Lender Credit towards closing costs. This credit cannot be used to pay any portion of your compensation (you can not retain any portion of the Lender Credit).
- The borrower can choose to pay discount points to NDM to lower their interest rate.
- You can reduce your fees or pay for RESPA cure violations ONLY if you choose to be compensated by the borrower.

### **Lender Paid Compensation**

When you select to be paid by NDM for a loan transaction, you will be paid a fixed percentage of the loan amount. Please consider the following when making your determination:

- The compensation percentage will be the same regardless of the type of loan or loan terms.
- You will no longer be allowed to credit some of your compensation to offset the borrower’s closing costs.
- You cannot collect any additional fees from the borrower even if being reimbursed for third-party costs (credit report, appraisal, etc.). All third party fees must be paid directly to the company providing the service.
- You will not be allowed to receive compensation from any other party to the loan, including the seller.

NDM will work closely with you to build a Lender-paid Compensation Plan which will take into account, among other things, the loan volume that you funded with us in 2010. The Compensation Plan may be updated periodically by NDM.



### **Anti-Steering – Safe Harbor**

The rule prohibits the loan originator from steering borrowers to loans in which they receive greater compensation from the lender unless the loan is in the borrower's interest. In conjunction with this prohibition, the rule also provides a "safe harbor" for the loan originator if the borrower is presented with options for each type of loan in which the borrower expresses an interest. The options must be obtained from a significant number of lenders with whom the loan originator regularly does business and include:

1. The lowest interest rate;
2. The lowest total dollar amount for discount points and origination fees;
3. The lowest interest without negative amortization, a prepayment penalty, or a balloon payment in the first seven years.

In order to utilize the safe harbor option, you will need to include an executed anti-steering disclosure on all loans and a copy of all loan offers presented to your borrower at the time of loan submission. We will share more details about the safe harbor provision in a later communication.

### **Additional Information**

NDM remains invested in the long term success of your company. We are committed to providing our customers with the information, tools and hands on support needed to successfully implement this new rule. We sincerely appreciate your business!

Please contact your Account Executive with additional questions or concerns.



## **LOAN ORIGINATOR COMPENSATION** *FREQUENTLY ASKED QUESTIONS*

**Q1. When are the changes effective?**

A. The new Loan Originator Compensation rules are effective with applications dated April 1, 2011. However, all loan submissions to Nations Direct dated 4/1/2011 and later, will fall under the new rule even if the application is dated prior to the effective rate of the rule.

**Q2. What types of loans are covered under the new rule?**

A. The new rule applies to all closed-end consumer loans secured by a mortgage, regardless of lien position.

**Q3. Will Nations Direct accept both types (lender-paid compensation or borrower-paid compensation) of loans from me?**

A. Yes. Brokers will have the ability to control the choice of compensation and compensation can vary from one loan to the next. Nations Direct will support whichever compensation plan is chosen.

**Q4. Origination Credits (or Yield Spread Premiums (YSP)) are disclosed as Loan Origination Credits on the GFE. Would this be considered compensation paid to the broker from the borrower?**

A. No. Origination Credits (or YSP) are not considered compensation received by the loan originator directly from the borrower. The Origination Credits are funds paid by the lender to the borrower based on the note rate selected by the borrower. The broker can not take any portion of the Loan Origination Credits as compensation.

**Q5. Can Lender Paid Compensation be different between Conventional and FHA loans or Purchases and Refinances?**

A. No. Lender paid compensation will be a fixed percentage of the loan amount regardless of the loan product chosen.

**Q6. Is Broker Compensation going to be capped under the new rules?**

A. No. While the Lender is required to pay the same amount on each loan when borrower paid compensation is chosen, you still have the ability to negotiate directly with the borrower the amount of origination charges the borrower will pay you. You will still be required to adhere to all State and Federal High Cost limits.

**Q7. How will Nations Direct determine the fixed percentage paid under the Lender Paid Compensation Agreement?**

A. Nations Direct will review the average compensation you received on loan transactions closed with us over the last year. No plans have been finalized to date but we plan on working with our brokers to find a compensation plan that fits their needs. Before entering into an agreement for compensation, you need to take into account your overhead costs, including the cost for processing your loans. Your compensation agreement should be sufficient to cover the amount of your compensation plus any overhead costs.

**Q8. Is Nations Direct paying the same amount to all its brokers?**

A. No. A Creditor is not required to pay the same amount to its brokers. During our evaluation, we will take into account the amount of submissions received from you, the pull through rate and the quality of the loans submitted to us.

**Q9. Can the borrower still include closing costs on a refinance transaction in their loan amount and pay the broker directly?**

A. Yes. Closing costs may either be paid in cash or included in the loan's balance on a refinance transaction. However, under the Lender Paid Compensation plan, you can not use any of your compensation to reduce the borrower's closing costs.

**Q10. Can a borrower still use Lender Credits (Yield Spread Premiums) to pay for closing costs?**

A. Yes. The borrower may still use the Lender Credit for the interest rate chosen to pay for third party closing costs in both Borrower Paid and Lender Paid compensated transactions. The broker is not allowed to retain any portion of the Lender Credit.

**Q11. How often will my compensation agreement be revised?**

A. The new rules allow for periodic reviews of factors such as loan performance, loan volume and current market conditions and revise the compensation it will pay on future transactions. Nations Direct will review our compensation agreements regularly and adjust compensation accordingly.

**Q12. What are the new anti-steering rules?**

A. The new rules prohibit brokers from "steering" a consumer into a loan that provides the broker with greater compensation, when the loan may not be in the borrower's interest.

**Q13. How can I demonstrate a loan is in the borrower's interest?**

- A. The loan must be compared to other possible loans available from the lender and for which the borrower is likely to qualify.

**Q14. Am I required to have a disclosure to demonstrate compliance with the anti-steering rule?**

- A. Yes. A disclosure showing the borrower the following must be given:
1. The loan with the lowest interest rate;
  2. The loan with the lowest dollar amount of origination points and discount points;  
**and**
  3. The loan with the lowest rate and no risky features (such as negative amortization or prepayment penalty).

**Q15. Does this new regulation supersede any current federal laws we currently have to comply with?**

- A. No. This is a new section of TILA. All current local, state and federal laws are still in effect.