



Qualified Mortgage Regulation - Harm to Consumers and Small Business

Mortgage Broker Companies at a Disadvantage. The 3 Percent Points and Fees Cap in the Qualified Mortgage calculations places mortgage brokers at a competitive disadvantage and thus taking away a competitive distribution channel that helps consumers obtain financing through multiple sources with just one efficient application process. The Consumer Financial Protection Bureau (CFPB) is double counting inside the 3% fee cap. This double counting puts mortgage broker companies at a competitive disadvantage in the market.

How is this double counted? The payments to mortgage company are already counted in the interest rate the consumer is getting for the mortgage. If the consumer paid all these fees going to the mortgage broker company from the lender, the consumer would receive a lower rate.

NAMB Solution - Prohibit the CFPB from counting any payment(s) that are reflected in the mortgage rate offered by the creditor/lender.

Consumer Protections Remain - There are prohibitions on steering consumers to loans that pay them additional compensation. Mortgage Companies are paid a set fee from the investor/creditor.

CFPB Statements - Agree Payments are Double Counted

The CFPB agrees this is double counting but is locked-into this interpretation because of the Dodd-Frank Act. "The Bureau stated in the 2013 Ability To Repay Proposed Rule that the exclusion from points and fees was warranted because a payment from either a consumer or creditor to a mortgage broker firm already is counted in points and fees, and that it would not be necessary or appropriate to also include in points and fees any funds that the mortgage broker firm passes on to its individual loan originator employees." CFPB Final LO Comp Rule page 75, May 29, 2013.

What the CFPB is pointing out (payments to the loan originator employee are already in the rate) is true for payments from the creditor to the mortgage company (the payments are reflected in the rate). The difference being pointed out here is the payment to the mortgage broker firm is already reflected in the consumer obtaining a mortgage with a higher rate (above par rate). The above par rate allows the creditor to pay the consumers' transaction fee directly to the mortgage broker firm. Thus reducing the consumers out of pocket cost for any given transaction. This being the case, the payment from the creditor to the mortgage broker firm should not be counted in the 3% points and fee cap of the Qualified Mortgage.

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