

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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LOAN ORIGINATOR COMPENSATION **FAQ 1**

Of all the Frequently Asked Questions that come across our desks, we find that those related to loan originator compensation far outweigh most others. In an effort to bring more detail in addressing some of these complex and ever changing (or so it seems) regulations, we thought we might try to answer some of these specific questions.

The new Rule effective 1/14/14 has many changes. Rather than address multiple questions in one sitting, every couple of days we will take the issues on one at a time in a question and answer format.

Please remember that our answers are not legal advice. That would require, among many other issues, detailed knowledge of and application of particular facts to a particular portion of the Rule or other related regulations.

TODAY'S QUESTION

May a loan originator's compensation be decreased, if:

1. There is an unforeseen settlement cost not originally disclosed to the borrower, or
2. there is an unforeseen increase in the amount of a settlement cost in a cost already disclosed to a borrower?

ANSWER

Unfortunately, the exception provided under the new Rule is very narrow. It does not allow for a decrease in compensation caused by a mistake or willful misconduct by the loan originator.

Rather, when there is an increase in a settlement cost or the addition of a new cost, the differential can be deducted from the loan originator's compensation if the original estimate is based on the best information available to the originator at the time the estimate in the GFE is provided.

The Rule is actually counter intuitive.

*When the decrease in compensation is based on the best information available, the originator may be "docked" the additional cost.

*When the decrease is based on an error on the part of the originator, the originator cannot be "docked".

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