Introduction

Midwest Loan Solutions, Inc. (MLS) is committed to the highest standards of Federal and state borrower compliance. MLS requires all management, employees and third-party originators and vendors to follow these policies and to adhere to these standards.

The purpose of this policy is to ensure MLS and its third party originators are complying with the requirements of the provisions of Regulation Z and to implement borrower protection mechanisms as required by Federal regulation.

The standards set out in this policy represent minimum requirements based on applicable legal and regulatory guidance and apply throughout MLS' operations. In accordance with MLS' policy, the Loan Originator Compensation policy and procedures described herein shall apply to all residential mortgage transactions and represent the full scope of products, property types, branches and geographic locations.

Background

The Consumer Financial Protection Bureau issued the Loan Originator Rule to implement the new Dodd-Frank Act requirements in January 2013. The Rule expands upon and refines earlier regulations adopted by the Board of Governors of the Federal Reserve System to restrict certain compensation practices. The Rule implements the Dodd-Frank Act requirements concerning loan originator qualifications that build upon existing requirements under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).

The Loan Originator Rule generally regulates how compensation is paid to a loan originator in most closed-end mortgage transactions, including:

- Prohibiting a loan originator's compensation from being based on the terms of the transaction or a proxy for a transaction term.
- Permitting certain methods of compensating loan originators using bonuses, retirement plans, and other compensation plans that are based on mortgage-related profits.
- Prohibiting loan originators in a transaction from being compensated by both the consumer and another person, such as a creditor.

The Rule also imposes qualification duties on loan originators. They must be licensed and registered if required under the SAFE Act or other state or federal law. In addition, the Rule requires that loan originators who are not required to be licensed and are not licensed be trained on the state and federal legal requirements that apply to their loan origination activities. The Rule also makes existing background and character screening requirements more consistent for different types of loan originators.

Review Requirement

MLS requires this policy and procedure to be reviewed no less than annually or when Federal regulation is amended and such amendments apply to MLS and its third party originators.

Loan Originator Compensation Rules under TILA

1. **Definitions**

A **Loan Originator** is an organization or individual that, for compensation or other monetary gain, performs loan origination activities such as:

- Taking an application
- Arranging a credit transaction
- Assisting a borrower in applying for credit. A loan originator assists a borrower in obtaining or applying for credit by advising on particular credit terms that are or may be available to the borrower based on the borrower's financial characteristics.
- Offering or negotiating credit terms. Credit terms include rates, fees and other costs. Credit terms are selected based on the borrower's financial characteristics when those terms are selected based on any factors that may influence a credit decision, such as debts, income, assets or credit history.
- Making an extension of credit
- Referring a borrower to a loan originator or creditor. Referring is an activity included under each of the activities of offering, arranging or assisting a borrower in obtaining or applying to obtain an extension of credit
- Advertising or communicating to the public that you can or will perform any loan origination services

The term does not include a person who does not take a consumer credit application or offer or negotiate credit terms available from a creditor, but who performs purely managerial, administrative or clerical tasks on behalf of a person who does engage in such activities.

An **Individual Loan Originator** is a natural person who meets the definition of loan originator.

A **Loan Originator Organization** is any loan originator that is not an individual loan originator.
Managers and Administrative Staff are individuals who are employed by a creditor or loan originator but do not arrange, negotiate, or otherwise obtain an extension of credit for a consumer, and whose compensation is not based on whether any particular loan is originated, are not loan originators.

Compensation includes salaries, commissions and any financial or similar incentive provided to a loan originator that is based on any of the terms or conditions of the loan originator's transactions.

For example, compensation includes:

- An annual or other periodic bonus; or
- Awards or merchandise, services, trips or similar prizes

Compensation includes amounts that loan originator retains and is not dependent on the label or name of any fee imposed in connection with the transaction.

A **Term of Transaction** is any right or obligation of the parties to a credit transaction.

A **Proxy** is a factor that consistently varies with a transaction term over a significant number of transactions and that the loan originator has the ability, directly or indirectly, to add, drop or change the factor in originating the transaction.

2. Loan Originator Qualification Rules

MLS will comply with all applicable Federal and state laws governing registration and licensing for loan originators employed by MLS, including the SAFE Act, its implementing regulations and any state SAFE Act implementing laws. MLS requires this standard for all third party originators.

MLS will ensure that all individual loan originators obtain any licenses or registrations required by the SAFE Act and state SAFE Act implementing law.

3. Overview of Compensation Rules

Regulation Z prohibits compensation to a loan originator for a transaction based on that transaction's interest rate, annual percentage rate, loan-to-value ratio or the existence of a prepayment penalty. The rule also prohibits compensation based on a factor that is a proxy for a transactions terms or conditions.

4. Acceptable Forms of Compensation

The following are examples of compensation factors that are not based on the transaction terms or conditions:

- Compensation that is based on the amount of credit extended (the loan amount)
- The loan originator's overall loan volume (i.e. the total dollar amount of credit extended or total number of loans originated)
- The long-term performance of the loan originator's loans
- An hourly rate of pay to compensate the loan originator for the actual number of hours worked
- Whether the borrower is an existing or a new customer
- A payment that is fixed in advance for every loan the loan originator originates (i.e. $600 for each loan originated, or $500 for each of the first 500 loans and $1000 for each additional loan)
- The percentage of applications submitted by the loan originator that results in consummated transactions
- A legitimate business expense

5. Compensation from a Borrower

If any loan originator receives compensation directly from a borrower in a transaction, no other person may provide any compensation to a loan originator, directly or indirectly, in connection with that particular credit transaction.

For purposes of this rule, payments made by creditors to loan originators are not payment made directly by the borrower, regardless of how the payments are disclosed under Regulation X.

6. **Third-Party Charges**
Compensation does not include amounts the originator receives as payment for bona fide and reasonable third-party charges, such as title insurance, credit reports or appraisals. In some cases, the initial disclosure (on the Loan Estimate) may exceed the actual charge because the originator cannot determine with accuracy what the actual charge will be before consummation.

In such cases the invoiced amount for the third-party charge is used to complete the Closing Disclosure. This process will eliminate any potential violation of an "up-charge" or the need to provide a cost-to-cure after consummation for the payment of a charge exceeding the actual amount of the invoiced service.

7. **Changes to Compensation**
Compensation plans may be amended periodically but the amendments must be written and acknowledged in writing by the MLS President.

All loans originated through loan applications received by MLS after a revised plan is in effect will be paid according to the revised compensation plan.

8. **Record Retention**
For each transaction subject to the Regulation Z, MLS must maintain records of the compensation it provided to the loan originator for the transaction as well as the compensation agreement in effect on the date the interest rate was set for the transaction.

MLS will ensure records are sufficient to evidence payment and receipt of compensation by demonstrating the following:
- The nature and amount of the compensation
- Who paid the compensation
- Who received the compensation
- When the payment and receipt of compensation occurred

These records will be retained for three years after the date of payment or receipt of compensation.