



Viral (Vic) Joshi
*Branch Manager/
Loan Consultant*
DRE Lic. #01242935
NMLS #244388



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Viral (Vic) Joshi *Branch Manager / Loan Consultant*

Office: (510) 655-2868 Cell: (510) 853-2407 Fax: (510) 291-2824
Email: viral@vicjoshi.com Web: www.vicjoshi.com

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but it could go down. This was good and worked well over the past year plus. Those of you who have done business with me may recall my explanation of how interest rates are offered with a spread of rates available each day and either a cost or rebate associated with each rate in the spread. The standard zero-point-rate option in this new structure is where the lender rebate is the same amount as the commission earned to offset the commission. If, for example, a 5% interest rate for a 30-year fixed allowed for a 1.5%, or 1.5 point, rebate and the commission disclosed in points is also 1.5% or 1.5 points, then the commission of 1.5% would be offset by the lender rebate of 1.5% and the net effect would be zero points to the borrower.

Now, the rules have changed so that the originator has to choose, with each lender they do business with, whether or not they want to get paid by the lender rebate or by the borrower. This is called lender paid or borrower paid commission. If we want to be paid by the lender, then we have set a fixed percentage amount of commission that we as a whole company (meaning all originators working through a specific broker) want to earn each month or quarter on each loan transaction. That amount cannot increase nor can it decrease for any loan closed during that month or quarter that the compensation percentage is set for. Whereas prior to 4/5/2011, the originator could decrease their commission percentage to be more competitive or to compensate the borrower for unseen costs and delays, the originator is no longer allowed to throw "skin" in the game for any reason. In fact, many lenders are requiring that to get paid via lender paid commission, the originator must make a minimum amount of commission on each transaction. The reason for an originator to be lender paid is this is the only way for an originator to be paid on a 1099 and remain an independent contractor. The only way for an originator to change their commission percentage deal by deal and to be able

to still affect the deal by putting skin in, if need be, is for the originator to be borrower paid. Essentially, borrower paid is the way things were setup from 1/1/2010 to 4/4/2011 as I explained earlier. The one problem with this is that to be borrower paid, the originator has to be W2 salaried or an hourly wage earner. This goes right to the heart of what the institutional banks are trying to do in limiting the competition and reducing the choices consumers have while reducing their overhead and increasing their profits. The banks all pay on W2 and have been reducing the compensation to their agents over the past ten years or so. These new rules allow them to continue to do this even more aggressively while making the commission based originator have to play by rules that reduce flexibility as well as reduce the ability to compete on rate and fee.

No broker who pays a commission is going to start paying a fixed salary or go hourly as each originator's income fluctuates based on how much business he or she does over a period of time. What we are stuck with is a system where the broker has to choose the amount of commission percentage that all of his/her originators will earn each quarter with each lender and decide on a different percentage for each lender.

Super confusing and I have run out of space for this issue. I will pick up where I left off in the next issue. Just know that in the name of the consumer, the Big Four get to continue limiting the consumer's choices and increase the cost of doing business. I am still committed as ever and I will continue to offer options that are superior to those being offered by the large lenders.

If you have any questions or need me to educate you more on how mortgage banking is working, or not working, these days, please don't hesitate to call me.

*As always, your loan guy,
Viral (Vic) Joshi*

Vic's **Mortgage Report**

"Home of Free Mortgage Consultation"

Viral (Vic) Joshi *Branch Manager/ Loan Consultant*



Hello Friends,
As of 4/5/2011, the new Fed rules on loan agent compensation went into effect. These changes come some three months before the new Consumer Financial Protection

Bureau is set to take over monitoring mortgage loan originators as well as enforcing rules violations. It is very possible that the entire structure of how mortgage originators conduct business may change again after the CFPB takes over. In fact, the new head of the CFPB recently stated that she was going to basically spend about half of her budget on monitoring and enforcing rules violations against non-depository lenders, otherwise known as mortgage brokers/bankers. This amount looks to be around \$150 million over the next one to two years. Meanwhile, the banks continue to drive the rules changes with their bloated lobbying machine and the consolidation of large institutional lenders leaves the consumer with about four institutional lenders to choose from: Wells, Chase, Citi, and BofA.

The majority of all mortgages written to be sold to Fannie Mae and Freddie Mac flow through those four lenders from the ground level originator, like me, through the various mortgage bankers on to the Big Four and finally to Fannie/Freddie. If you think there is less and less competition for your business, you are 100% correct. The new Frank-Dodd Wall Street Reform Act of 2010 began affecting how mortgage originators get paid in January 2010 by restricting who can pay the commission of a mortgage originator. As of 1/1/2010, we originators could no longer get paid by the lender in the form of a rebate associated with a specific interest rate. The only party who could pay our commission was the borrower and if the lender offered a rebate for a specific rate, then the entire rebate would go to offset the borrower's closing costs. In this way, the originator would have to disclose the exact amount of the commission earned on each transaction and that amount could not go up,

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