

Overlay: Conflicts of Interest/Dual Compensation

EFFECTIVE DATE: 03-12-2020

04-10-2020: This document has been updated to provide clarity regarding the overlay and to include an acceptable allowance specific to the state of California.

A mortgage transaction in which an employee of an FGMC-approved mortgage broker has a prohibited conflict of interest is not acceptable.

A prohibited conflict of interest exists when employees have multiple roles in a single mortgage transaction. Employees of FGMC-approved mortgage brokers are prohibited from having multiple sources of compensation, either directly or indirectly, from a single mortgage transaction.

Under California law, the purchase transaction and financing transaction are considered two separate and distinct transactions. As such, this is not a violation of the LO Comp Rule and a Mortgage Loan Originator may be paid in both capacities. The Mortgage Loan Originator must provide a written disclosure of his/her dual roles in the transaction to all parties within 24 hours of the contractual agreement. FGMC will require that the seller pay the real estate commission and that broker compensation is paid by the mortgage lender.

Reference the below table for the acceptability of dual compensation and/or a prohibited conflict of interest:

Loan Type	All States excluding CA	Applicable to CA Only
Department of Agriculture (USDA)	Unacceptable	Acceptable
Department of Veterans Affairs (VA)	Unacceptable	Acceptable
Fannie Mae (FNMA)	Unacceptable	Acceptable
Freddie Mac (FHLMC)	Unacceptable	Acceptable
Non-Qualified Mortgage (NQM)	Unacceptable	Unacceptable

As a reminder, FHA does not allow a prohibited conflict of interest or dual compensation for any transaction.