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A Message from Timothy Baron:

"Are MSAs on the way out?"

CFPB Addresses Marketing Services Agreements

Saying it was **"deeply concerned"** about how marketing services agreements are undermining consumer safeguards against kickbacks, the Consumer Financial Protection Bureau (CFPB) has issued guidance about them directed to the mortgage industry. The Bureau released a bulletin on Thursday which offers an overview of the federal prohibition against kickbacks and the risks lenders face when then enter into the agreements.

A loose definition of marketing serves agreement is a contract by which one company will market another company's products. In the mortgage world these agreements have sometimes taken the form of providing **tangible rewards** to real estate agents for referring their customers for mortgages or provision of joint marketing materials or events. The relationships are not limited to lenders and real estate agents but have also involved title insurers, escrow agents, private mortgage insurers, and others.

The CFPB is responsible for enforcing the Real Estate Settlement Procedures Act (RESPA) which, among its goals when enacted in 1974, was the elimination of kickbacks or referral fees which, CFPB says, tend to unnecessarily increase the costs of settlement services. The RESPA law covers any service provided in connection with a real estate settlement.

According to Thursday's bulletin, marketing services agreements are typically framed as **payments for advertising** or promotional services, but in some cases those payments are actually disguised compensation for referrals. "Any agreement that entails exchanging a thing of value for referrals of settlement service business likely violates federal law, regardless of whether a marketing services agreement is part of the transaction."

In recent months CFPB has brought **enforcement actions** against several companies for actions it alleged were out and out kickbacks. A little over two months ago Wells Fargo, the target along with a named employee of one action, announced it was winding down its marketing services agreement because of increasing uncertainty surrounding regulatory oversight of these types of arrangements.

National Average Mortgage Rates



Mortgage News Daily	Rate	Change	Points
30YR Fixed	7.27%	-0.02	0.00
15YR Fixed	6.92%	-0.03	0.00
30YR FHA	6.90%	-0.01	0.00
30YR Jumbo	7.55%	0.00	0.00
7/6 SOFR	6.78%	-0.10	0.00
30YR VA	6.91%	-0.01	0.00

Rates as of: 10/30

MBS and Treasury

	Price / Yield	Change
MBS UMBS 6.0	99.82	+0.01
10 YR Treasury	4.9073	-0.0226
30 YR Treasury	5.2730	-0.0352

Pricing as of: 11/2 9:13AM EST

Recent Housing Data

		Value	Change
Mortgage Apps	Oct 21	195	+3.39%
Building Permits	Sep	1.4M	+0.43%
Housing Starts	Sep	1.22M	-4.24%
New Home Sales	Sep	676K	-1.17%
Pending Home Sales	Aug	71.2	0%
Existing Home Sales	Oct	3.99M	+0.25%
Builder Confidence	Oct	29	-9.38%

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"We are deeply concerned about how marketing services agreements are undermining important consumer protections against kickbacks," CFPB Director Richard Cordray said. "Companies do not seem to be recognizing the extent of the risks posed by implementing and monitoring these agreements within the bounds of the law."

The bulletin describes a number of legal violations the Bureau has encountered in investigations involving kickbacks and referral fees. In one example the Bureau said a title insurance company entered into marketing services agreements where the fees paid by the company were based in part on the number of referrals it received, as well as the revenue generated by those referrals. In another case, a settlement service provider **did not disclose** its affiliate relationship with an appraisal management company and did not tell consumers that they had the option of shopping for services before directing them to the affiliate.

The CFPB's enforcement actions against companies and individuals for violations of the Real Estate Settlement Procedures Act have resulted in more than $75 million in penalties to date. The payment of improper kickbacks and referral fees has been the basis of almost all of those actions. CFPB says it **intends to continue actively scrutinizing** the use of such agreements and related arrangements in the course of its enforcement and supervision work.

The Bulletin is available at http://files.consumerfinance.gov/f/201510_cfpb_compliance-bulletin-2015-05-respa-compliance-and-marketing-services-agreements.pdf

Experienced. Trusted. Local.

The Arizona Loan Baron is at your service!

I would appreciate the opportunity to share with you my extensive mortgage lending experience. My client focused approach has allowed me to build long lasting relationships and partnerships throughout Arizona. I know this market. I live here and work here. Please allow me to be your mortgage lending partner.

Timothy Baron 

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