



Contract Processing Policy Statement

Essex Mortgage will permit the use of an independent contract processor for wholesale transactions. Processing fees paid to a third party individual processor or processing company will be excluded from the Qualified Mortgage (QM) points and fees test and will not be included as loan originator compensation, as long as the requirements set forth in this policy are met.

Requirements for Contract Processors

Scope of Work

In order to receive payment as an independent contract processor, contract processors may not perform any of the following activities on the loans for which they are contracted to process that would constitute acting as a loan originator per Regulation Z, including:

- Taking/filling out an application
- Offering, arranging or assisting a borrower in obtaining or applying to obtain a loan
- Negotiating, or otherwise obtaining or making a loan
- Representing that they can or will perform any of these activities to the public via advertisement or other communication with the public

Contract processors who perform any of the above loan origination activities on the loans they are contracted to process are considered loan originators under Regulation Z and the Loan Originator Compensation Rule and points and fees limit under the Ability to Repay/Qualified Mortgage rule would apply.

The aforementioned loan originator definition **does not** include persons who, on behalf of a loan originator or creditor:

- Compile and assemble credit application packages and supporting documentation;
- Verify information provided by the consumer in a credit application such as by asking the consumer for supporting documentation or the consumer's authorization for the person to obtain supporting documentation from other persons;
- Coordinate consummation of the credit transaction or other aspects of the credit transaction process, including by communicating with a consumer about process deadlines and documents needed at consummation, provided that any communication that includes a discussion about credit terms available from a creditor to that consumer selected based on the consumer's financial characteristics only confirms credit terms already agreed to by the consumer;
- Provide a consumer with information unrelated to credit terms, such as the best days of the month for scheduling consummation; or
- Communicate on behalf of a loan originator that a written credit offer has been sent to a consumer without providing any details of that offer.

Licensure

Contract processors must be properly licensed and registered with the NMLS to perform processing services in the state where the subject property is located. This license must be active for the full amount of time between the



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time the loan processing is conducted and the closing of the loan. Processing services may only be provided in the states in which an active license is held.

Essex Mortgage will accept either a properly licensed individual contract processor or an employee of a properly licensed third-party processing company. All contract processing fees must be paid to the licensed party.

Independence

Contract processors must be truly independent and have no connection or affiliation whatsoever with the Broker or Broker Company for which they are contracted to perform processing activities in order to collect a third-party processing fee. The contract processor or processing company may not be listed as “authorized to represent” the broker on the NMLS, unless required by state law.

Processors who are affiliated with the broker or are properly licensed employees of the broker are not third-party processors and their fees must be included in the ATR/QM points and fees calculations. The Loan Originator Compensation rule also applies in this situation. In this instance, on a lender paid transaction the broker’s total charge including the processing fee cannot exceed their established compensation plan. On a borrower paid transaction, the processing fee must be properly disclosed in Section A of the Loan Estimate. In both types of compensation plans, the total points and fees cannot exceed the three percent ATR/QM threshold. This amount includes broker compensation, processing fees, and any lender or affiliate charges.

Procedures

Required Documentation

An executed copy of the Contract Processing Agreement must be provided to Essex Mortgage for approval. This document must be signed by the contract processor. Agreements that are signed using an electronic signature service such as DocuSign must be accompanied by the electronic certificate (such as the DocuSign envelope or equivalent) verifying the source of the signature. This document will be kept on file by Essex Mortgage.

An invoice for third-party processing services shall be submitted to Essex Mortgage **at the time of file submission** in order to be paid through escrow.

Invoice Requirements

The requirements for the processing fee and invoice are as follows:

- The invoice must be provided at the time of file submission
- The invoice must be in the name of the licensed entity (individual processor or processing company)
- The invoice must be for a bona fide and reasonable processing fee, **not to exceed \$1,125.**
- The fee will be paid through the close of escrow directly to the individual processor or processing company named on the invoice; fees **CANNOT** be paid to the broker for future disbursement.



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Disclosure Requirements

Essex Mortgage requires that the processing fee be disclosed in Section B of the Loan Estimate. If Essex Mortgage will be preparing disclosures on behalf of the broker, this fee must be included on the initial fee sheet provided to the Mortgage Operations Support department so that it may be disclosed properly. If the wholesale broker prepares their own disclosures, this fee must be listed as a Third-Party Processing Fee in Section B of the Loan Estimate. The Closing Disclosure prepared by Essex Mortgage shall show this charge in Section B as a Third-Party Processing Fee, paid to the individual processor or processing company named on the invoice.

If the fee is not included on the fee sheet or is not properly disclosed by the broker on the initial Loan Estimate, it cannot be added on a later Loan Estimate as a change of circumstance. This fee cannot increase after initial disclosure for any reason.

Approval Process

Essex Mortgage (Compliance department or designee) will be responsible for reviewing contract processor agreements. The contract processor must be approved for EACH broker that they process for. This will be handled internally.

The checklist for approval is as follows:

- Contract processing agreement signed by processor
- Mortgage Broker Affiliate Disclosure in broker package does not reflect affiliation with processing company or individual processor
- Online check for affiliations (company websites, business profiles)
- Processor is not listed as an employee of the broker in Essex broker package
- Lexis Nexis for the broker lists no affiliation or connection to processor (if available in broker package)
- NMLS record for processor and/or processing company is currently active and authorized to do business
- NMLS record of processor and/or processing company shows no authorization to represent, affiliation or connection with the broker
- NMLS record of broker does not have the same location or contact information as the processor, such as same name, phone number or address

Monitoring

Once approved, the contract processor or processing company shall be added to the list of approved entities. As the contract processor or processing company is approved to process for more than one broker, the additional brokers will be added to the list. Processors and brokers shall notify Essex Mortgage of changes to their affiliations or licensure as soon as possible. The list of approved contract processors shall be monitored on an annual basis. The NMLS license for each processor shall be checked at time of annual renewal and processors/brokers will be required to re-certify that they have no affiliation with one another. Essex Mortgage retains the right to withdraw approval of the contract processor if the license has lapsed or if it is discovered that the contract processor is not acting on an independent basis.