Mortgage Broker

A **mortgage broker** acts as an intermediary who brokers mortgage loans on behalf of individuals or businesses.

Traditionally, banks and other lending institutions have sold their own products. However as markets for mortgages have become more competitive, the role of the mortgage broker has become more popular. Today in most developed mortgage markets (especially in Canada, the U.S., the UK, Australia, New Zealand and Spain) mortgage brokers are the largest sellers of mortgage products for lenders. Mortgage brokers exist to find a bank or a direct lender that an individual seeks with a specific loan the individual is seeking. Mortgage brokers in Canada are paid by the lender and do not charge fees for good credit applications.

The majority of mortgage brokers are regulated to ensure compliance with banking and or finance laws in the jurisdiction of the consumer; however, the extent of the regulation depends on the jurisdiction. Only one state within the U.S. has no laws that govern mortgage lending.

Tasks of mortgage broker

Banking activities can be divided into the following:

Retail Banking, dealing directly with individuals and small businesses;

Business banking, providing services to mid-market business;

Corporate banking, directed at large business entities;

Land mortgage banking, it specializes in originating and/or serving land mortgage loans;

Private banking, providing wealth management services to High Net Worth Individuals and families; and

Investment banking, relating to activities on the financial markets.

Most banks are profit-making, private enterprises. However, some are owned by government, or are non-profits. Central banks are normally government owned banks, often charged with quasi-regulatory responsibilities, e.g. supervising commercial banks, or controlling the cash interest rate. They generally provide liquidity to the banking system and act as Lender of last resort in event of a crisis.

The nature and scope of a mortgage broker's activities varies with jurisdiction. For example in the UK anyone offering mortgage brokerage is offering a regulated financial activity; the broker is responsible for ensuring the advice is appropriate for the borrowers' circumstances and is held financially liable if the advice is later shown to be defective. In other jurisdictions the transaction undertaken by the broker may be limited to a sales job: pointing the borrower in the direction of an appropriate lender, no advice given, and a commission collected for the sale.

Therefore the work undertaken by the broker will depend on the depth of their service and liabilities. Typically the following tasks are undertaken:

- Marketing to attract clients
- Assessment of the borrowers circumstances (Mortgage fact find forms interview). This may include assessment of credit history (normally obtained via a credit report) and affordability (verified by income documentation).
- Assessing the market to find a mortgage product that fits the client's needs. (Mortgage presentation/recommendations)
- Applying for a lenders agreement in principle (pre-approval)
- Gathering all needed documents (paystubs/payslips, bank statements, etc.),
- Completing a lender application form.
- Explaining the legal disclosures.
- Submitting all material to the lender.
- Upholding their duty by saving their clients as much money as possible by offering best advice for the clients circumstances.

Mortgage brokerage in the USA

According to a 2004 study by Wholesale Access Mortgage Research & Consulting, Inc., there are approximately 53,000 mortgage brokerage companies that employ an estimated 418,700 employees and originate 68% of all residential loans in the U.S.. The remaining 32% is retail done through the lender's retail channel, which means the lender does not go through a broker.

The mortgage broker industry is regulated by 10 federal laws, five federal enforcement agencies and 49 state laws or licensing boards.

The banks have used brokers to outsource the job of finding and qualifying borrowers, and also to outsource some of the liabilities for fraud and foreclosure onto the originators through legal agreements.

During the process of loan origination, the broker gathers and processes paperwork associated with mortgaging real estate.

Difference between a mortgage broker and a loan officer

A mortgage broker works as a conduit between the buyer and the lender, the loan officer typically works directly for the lender. Most states require the mortgage broker to be licensed. States regulate lending practice and licensing, but the rules vary. Most have a license for those who wish to be a "Broker Associate", a "Brokerage Business", and a "Direct Lender".

A mortgage broker is normally registered with the state, and personally liable (punishable by revocation or prison) for fraud for the life of a loan. A loan officer works under the umbrella license of their current institution, typically a bank or direct lender. Both positions have legal, moral, and professional responsibilities as well as liabilities to prevent fraud and fully disclose loan terms to both consumer and lender. Additionally, agents of mortgage brokers may refer to themselves as "loan officers".

Mortgage brokers must also be licensed through the Nationwide Mortgage Licensing System and Registry (NMLS). The purpose of the Nationwide Mortgage Licensing System is to improve and enhance mortgage industry supervision, create better communication from state to state, and to create consistency in licensing requirements and automate the licensing process to the greatest degree possible. Loan officers that work for a direct lender are required to be registered with the NMLS, but not licensed.

Typically, a mortgage broker will make more money per loan than a loan officer, but a loan officer can utilize the referral network available from the lending institution to sell more loans. There are mortgage brokers and loan officers at all levels of experience.

Industry competitiveness

A large segment of the mortgage finance industry is commission based. Potential clients can compare a lender's loan terms to those of others through advertisements or internet quotes.

In the 1970s, mortgage brokers did not have access to wholesale markets, unlike traditional bankers. Today, mortgage brokers are more competitive with their access to wholesale capital markets and pricing discounts. A mortgage broker has lower overhead costs compared to large and expensive banking operations because of their small structure. They can lower rates instantly to compete for clients. Larger companies are less competitive since they provide their sales representatives their fixed rate sheets. Loan officers often cannot reduce their companies' profit margin and may be higher or lower than the marketplace, depending on the decision of managers. Thus, mortgage brokers have gained between 60 to 70% of the marketplace.

Mortgage brokers can obtain loan approvals from the largest secondary wholesale market lenders in the country. For example, Fannie Mae may issue a loan approval to a client through its mortgage broker, which can then be assigned to any of a number of mortgage bankers on the approved list. The broker will often compare rates for that day. The broker will then assign the loan to a designated licensed lender based on their pricing and closing speed. The lender may close the loan and service the loan. They may either fund it permanently or temporarily with a warehouse line of credit prior to selling it into a larger lending pool.

The difference between the "Broker" and "Banker" is the banker's ability to use a short term credit line (known as a warehouse line) to fund the loan until they can sell the loan to the secondary market. Then they repay their warehouse lender, and obtain a profit on the sale of the loan. The borrower will often get a letter notifying them their lender has sold or transferred the loan. Bankers who sell most of their loans and do not actually service them are in some jurisdictions required to notify the client in writing. For example New York State regulations require a non servicing "banker" to disclose the exact percentage of loans actually funded and serviced as opposed to sold/brokered.

Brokers must also disclose Yield spread premium while Bankers do not. This has created an ambiguous and difficult identification of the true cost to obtain a mortgage. The government created a new Good Faith Estimate (2010 version) to allow consumers to compare apples to apples in all fees related to a mortgage whether you are shopping a mortgage broker or a direct lender. The government's reason for this was some mortgage brokers were utilizing bait and switch tactics to quote one rate and fees only to change before the loan documents were created. Although ambiguous for the mortgage brokers to disclose this, they decide what fees to charge upfront whereas the direct lender won't know what they make overall until the loan is sold.

Sometimes they will sell the loan, but continue to service the loan. Other times, the lender will maintain ownership and sell the rights to service the loan to an outside mortgage service bureau. Many lenders follow an "originate to sell" business model, where virtually all of the loans they originate are sold on the secondary market. The lender earns fees at the closing, and a Service Release Premium, or SRP. The amount of the SRP is directly related to the terms of the loan. Generally, the less favorable the loan terms for the borrower, the more SRP is earned. Lender's loan officers are often financially incentivized to sell higher-priced loans in order to earn higher commissions.

Secondary market influence

Even large companies with a lending license sell, or broker, the mortgage loan transactions they originate and close. A smaller percentage of bankers service and keep their loans than those in past decades. Banks act as a broker due to the increasing size of the loans because few can use depositor's money on mortgage loans. A depositor may request their money back and the lender would need large reserves to refund that money on request. Mortgage bankers do not take deposits and do not find it practical to make loans without a wholesaler in place to purchase them. The required cash of a mortgage banker is only $500,000 in New York. The remainder may be in the form of property assets (an additional $2.00), an additional credit line from another source (an additional $10,000,000). That amount is sufficient to make only two median price home loans. Therefore, mortgage lending is dependent on the secondary market, which includes securitization on Wall Street and other large funds.

The largest secondary market or"wholesale" institutions are Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, commonly referred to as Fannie Mae and Freddie Mac, respectively. Loans must comply with their jointly derived standard application form guidelines so they may become eligible for sale to larger loan servicers or investors. These larger investors could then sell them to Fannie Mae or Freddie Mac to replenish warehouse funds. The goal is to package loan portfolios in conformance with the secondary market to maintain the ability to sell loans for capital. If interest rates drop and the portfolio has a higher average interest rate, the banker can sell the loans at a larger profit based on the difference in the current market rate. Some large lenders will hold their loans until such a gain is possible.

The selling of mortgage loans in the wholesale or secondary market is more common. They provide permanent capital to the borrowers. A "direct lender" may lend directly to a borrower, but can have the loan pre-sold prior to the closing.

Few lenders are comprehensive or "portfolio lenders". That is, few close, keep, and service the mortgage loan. The term is known as portfolio lending, indicating that a loan has been made from funds on deposit or a trust. That type of direct lending is uncommon, and has been declining in usage. An example of a portfolio lender in the USA is ING Direct.

Improved consumer laws

The laws have improved considerably in favor of consumers. A mortgage broker must comply with standards set by law in order to charge a fee to a borrower. The fees must meet an additional threshold, that the combined rate and costs may not exceed a lower percentage, without being deemed a "High Cost Mortgage". An excess would trigger additional disclosures and warnings of risk to a borrower. Further, the mortgage broker would have to be more compliant with regulators. Costs are likely lower due to this regulation.

Mortgage bankers and banks are not subject to this cost reduction act. Because the selling of loans generates most lender fees, servicing the total in most cases exceeds the high cost act. Whereas mortgage brokers now must reduce their fees, a licensed lender is unaffected by the second portion of fee generation. This is due to the delay of selling the servicing until after closing. Therefore, it is considered a secondary market transaction and not subject to the same regulation.

Brokers and client's interests

As of 2007, in the United States the federal law and most state laws do not assign a fiduciary duty on mortgage brokers to act in best interests of their customers. An exception is California, where a 1979 ruling of the Supreme Court of California did establish fiduciary duties of mortgage brokers.[1] This means that consumers, in states other than California, may be charged excessive rates and fees and are encouraged to do some shopping around prior to any agreement.

Predatory mortgage lending and mortgage fraud

Mortgage fraud is when one or more individuals defraud a financial institution by submitting false information willfully. This is normally to obtain a favorable outcome. Some mortgage brokers have been involved in mortgage fraud according to the FBI.[2]

Predatory mortgage lending is when a dishonest financial institution willfully misleads or deceives the consumer. Some mortgage consultants, processors and executives of mortgage companies have been involved in predatory lending.

Some signs of predatory lending include:

- Falsifying income/asset and other documentation.
- Not disclosing Yield spread premium or other hidden fees BEFORE the settlement/closing.

- Failing to provide all RESPA documentation, i.e. Good Faith Estimate, Special Information Booklet, Truth in Lending, etc. so the borrower may clearly understand the mortgage terms and lender policies.
- Convincing borrowers to refinance a loan without any true benefit.
- Influencing a higher Loan Amount and inflated appraisals (usually in tandem with an appraiser).
- Unjustly capitalizing on a borrower's relative ignorance about mortgage acquisition.

Another unethical practice involves inserting hidden clauses in contracts in which a borrower will unknowingly promise to pay the broker or lender to find him or her a mortgage whether or not the mortgage is closed. Though regarded as unethical by the National Association of Mortgage Brokers, this practice is legal in most states. Often a dishonest lender will convince the consumer that he or she is signing an application and nothing else. Often the consumer will not hear again from the lender until after the time expires and then they are forced to pay all costs. Potential borrowers may even be sued without having legal defense.

Mortgage brokerage in Canada

The laws governing mortgage brokerage in Canada are determined by provincial governments. Most provinces require mortgage brokerage companies to carry a provincial license. Throughout Canada, high ratio loans are insured by either the Canada Mortgage and Housing Corporation, Genworth Financial or Canada Guaranty.

Mortgage brokerage in Australia

Mortgage Brokers have been active in Australia since the early 1980s however they have only become a dominant force in the mortgage industry during the late 1990s on the back of aggressive marketing by Aussie Home Loans & Wizard Home Loans. Approximately 35% of all loans secured by a mortgage in Australia are introduced by mortgage brokers.[3]

Mortgage Brokers are now regulated by the Australian Securities and Investments Commission. The new national consumer credit protection legislation includes a licensing regime and responsible lending obligations.[4] Mortgage Brokers are also required to be a member of an external dispute resolution provider such as the Credit ombudsman service Limited (COSL). Further, some lenders require accredited brokers to be a member of an industry body such as the Mortgage & Finance Association of Australia (MFAA).

Australian mortgage brokers do not usually charge a fee for their services as they are paid by the lenders for introducing loans.[5] They are paid an up front commission that is on average 0.66% of the loan amount and an ongoing trail commission that is on average 0.18% of the loan amount per annum paid monthly. These commissions can vary significantly between different lenders and loan products, especially since the commission re-alignments introduced by Australian banks during June to August 2008 in reaction to the Subprime mortgage crisis.

Although mortgage brokers are paid commissions by the lenders this does not alter the final rate or fees paid by the customer as it may in other countries. Mortgage brokers do not have the ability to charge the customer a higher or lower rate and in return obtain a higher or lower commission.

Mortgage brokerage in Singapore

The mortgage brokerage industry is still new compared to the situation in the U.S.A. and the U.K. Not all of the banks in Singapore are tied up with the mortgage brokerage firms. The mortgage brokers are mostly regulated by the Singapore Law of Agency.

A study undertaken by Chan & Partners Consulting Group (CPCG) shows that the mortgage brokering industry is still largely a new concept to the Singapore financial consumers. However this will set to change as more consumers realize that taking up a housing loan with the mortgage broker does not increase the consumer's cost at all, and can in fact aid them in making a more informed decision.

A separate research by CPCG shows that the fee structure in the mortgage brokerage industry in Singapore is not regulated. This resulted in different kinds of fee structure for different mortgage brokerage companies. The research stated that while mortgage brokers in other parts of the world are largely commission based, some mortgage brokers in Singapore do charge the customers a retainer's fee which can range from SGD$500 to SGD$1000.

References

1. Mortgage Brokers: Friends or Foes? *the Wall Street Journal Online* May 30, 2007
2. "FBI warns of mortgage fraud 'epidemic'". *CNN*. 2004-09-17. http://www.cnn.com/2004/LAW/09/17/mortgage.fraud. Retrieved 2010-05-13.
3. Australian mortgage broker market share
4. http://www.asic.gov.au/credit
5. "Beware mortgage broker commissions". *The Age* (Melbourne). 2004-09-28. http://www.theage.com.au/business/money/tools/guides/banking/commission.html. Retrieved 2009-02-20.

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