

SBA/Loan Agent/Broker Fraud: What's Your Responsibility?

This is the second in a series of eBulletins addressing SBA agent/broker fraud, an issue amounting to more than \$300 million in criminal investigations involving loan agent/broker fraud the SBA Office of Inspector General's Investigations Division has conducted over the past 10 years.

To recap, loan agent enforcement regulations are in SBA (13 C.F.R. Part 103). The provision authorizing the OCRM director to conduct enforcement actions is in the SBA's Standard Operating Procedure 50-53, Lender Supervision and Enforcement, issued in October 2010. This provision grants the director of the SBA Office of Credit Risk Management authority to suspend or revoke privileges to conduct business with the SBA of any agent engaging in unlawful or unethical activity. As an SBA lender, you don't want things to get that far! You need to focus on the business at hand - increasing your SBA loan portfolio - and avoiding issues that would put your portfolio at risk.

What you should do

You're on the front lines to quell abusive agent/broker activity. To avoid any issues, it's a critical first step to thoroughly vet every agent/broker who comes your way before entering into a relationship.

What to look for:

- Proper state licensing; examine any license expirations
- Business license
- Length of time in business
- Local (to broker) business only
- Business credit report
- References
- Extensive background checks

What you're required to do

As provided under the regulation, for each loan:

- No matter whether it's your institution or the borrower compensating the agent, get a 159 7(a) Form from every agent involved in your loans.
- Make sure only one entity - your institution or the borrower - is having an agent for the same service

- If the agent is charging the borrower more than \$2,500, the agent must provide a detailed, itemized invoice including the date, hours and the hourly rate for each task.
- Certify that your institution has no knowledge of any other agents involved in the loan and that there are no other fees paid to the agent other than what's reported on the form.
- Submit a copy of the 159 7(a) to Colson with the first 1502 report for the loan.

At J.R. Bruno & Associates we have 17 years of experience serving business lenders of all sizes and have encountered a wide variety of agent/broker situations. Let us put our expertise to work to help you stave off broker fraud and abuse. Our JRB Team can help you establish internal policies and broker agreements and procedures - so you can get down to business. Call us.

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