Compliance Plan Guidance

The following material is taken from the Office of Thrift Supervision Examination Handbook as a skeletal outline of the types of issues mortgage brokers should consider in the development of an adequate compliance policy and program.

The comprehensive nature or even the need for each of these component items will be dependent upon a number of environmental issues including but not limited to the number of sponsored loan officers, volume of loan production, or operations out of multiple locations. Despite this caveat taken as a whole the OTS SMAART program provides an excellent template from which to develop and maintain a personalized and effective compliance environment.

SMAART Factors

In evaluating the association's compliance program, consider the information you have available, including compliance reviews, audit or self-assessment reports, prior familiarity with association operations and personnel, and any new information from current interviews with management. Then, consider how the association's compliance program or control processes address, at a macro level, each of the basic SMAART components:

Systems

- The adequacy of the association's formal written compliance program given its size, structure, and complexity of operations.
- The scope of internal policies and procedures to determine whether they cover all functional areas and pertinent regulatory requirements relevant to the association's business operations.
- The means by which management translates compliance policies into system requirements and controls that govern how transactions are conducted.
- Record retention schedules for meeting pertinent regulatory requirements.
- Whether the association's planning process for product development sets standards for documents and disclosure review, system testing, and staff training with respect to relevant compliance requirements prior to the product rollout.
- How responsive management and the board are to adjusting policies and procedures to account for new compliance obligations relevant to its business operations.

Monitoring

- How the association's process for supervising operational performance incorporates assurances that staff adheres to compliance responsibilities and customer service goals.
- How the association conducts due diligence in retaining third party service providers to assure compliance obligations that are part of the arrangement will be fulfilled going forward.
- The monitoring controls used to confirm real-time performance of a third party's compliance obligations as they relate to the products and services delivered by, or on behalf of, the association.

- The association's internal controls as they pertain to information systems or other technological tools used to conduct association business to assure that compliance obligations are being monitored.

- How well management monitors the impact of external factors including legislative, regulatory, industry, and market conditions on the compliance program.

Assessment

- Whether the association's compliance program provides for periodic, scheduled reviews or audits of compliance performance giving due consideration to the association's size, complexity, and risk.

- Whether the structure and schedule of the internal review program covers all necessary regulatory and functional areas, including lending operations, retail operations, Bank Secrecy Act, consumer privacy, and fair lending.

- Whether periodic compliance reviews and audits include transactional analysis and that the standards for transaction sampling are appropriate.

- The standards for work papers generated in support of periodic self-assessments and for the documentation of findings that result from such self-assessments.

- Reports of the findings of self-assessments or periodic compliance performance reviews, including the quality of the analysis conducted.

- The reporting process for communicating conclusions and recommendations from the periodic reviews or audits to appropriate senior management or the board.

- Whether the validity of the periodic review process is compromised by a lack of independence, insufficient resources or inadequate expertise.

- Whether the association uses third party contractors to perform reviews or audits, and whether those reviews or audits are conducted in accordance with review standards established by the association.

Accountability

- Whether the board of directors, in its minutes and other indicators of board conduct, does the following:

  — Adopts and/or updates the association's written compliance program.
  — Allocates sufficient resources for implementation of the program after due consideration for the association's size, business strategies, regulatory obligations, and operational complexity.

- The compliance officer's responsibilities and whether the compliance officer's duties are performed in accordance with the written program.

- Whether the compliance officer has appropriate access to the board or its audit committee.

- Policies, procedures and job performance evaluations to determine if the board and senior management have established and pursued an effective oversight mechanism to assure that management officials are fulfilling their compliance responsibilities.

- Whether the association's reporting standards and process provides for accountability throughout all staff levels in implementing compliance controls within designated areas and in connection with third party service providers.

Response

- Whether the association's compliance program provides for the initiation of corrective actions to exceptions and weaknesses and self-identified corrective actions. Consider whether this process is monitored and tracked to assure prompt implementation of corrective actions and their overall effectiveness.

- How the consumer complaint resolution process is incorporated into compliance management efforts to redress individual problems, and to identify and correct the causes of compliance control weaknesses or deficiencies.

Training

- The process used to disseminate compliance-related information and customer service goals to affected line management and all persons responsible for meeting day-to-day compliance or customer service obligations.

- Whether the association's training program is appropriate for the association's size and operation. Also determine if the training is consistent with the association's products and services.

- How the training program keeps personnel current with changes in compliance laws and regulations affecting business operations.
- The association's efforts to train the board about compliance developments and their relation to the operations or business plans of the association.