

## Common Mortgage Exam Violations

Findings	References
<p><b>Information Security Program</b></p> <ul style="list-style-type: none"> <li>• No Information Security Program developed.</li> <li>• Program lacking the required criteria: <ul style="list-style-type: none"> <li>○ Designate an individual to coordinate the Program and include the designated individual's name and contact information;</li> <li>○ Provide detailed policies and procedures for secure destruction and disposal of records;</li> <li>○ Identify and assess internal and external risks to confidentiality and security of consumer information;</li> <li>○ Test and monitor key controls identified through risk assessment;</li> <li>○ Document the selection and oversight measures to ensure that service providers safeguard information;</li> <li>○ Provide information security awareness training to all employees as part of initial training and annually; and</li> <li>○ Provide for periodic updating to reflect changes in risks.</li> </ul> </li> </ul>	<p><a href="#">16 Code of Federal Regulations, Part 314</a></p>
<p><b>Remote Work Policy</b></p> <ul style="list-style-type: none"> <li>• Staff allowed to work remotely, but no Remote Work Policy in place.</li> <li>• Program lacking the required criteria: <ul style="list-style-type: none"> <li>• Include safeguards to protect consumer data, information, and records including use of secure virtual private networks and data storage encryption where applicable;</li> <li>• Include appropriate risk-based monitoring and oversight processes;</li> <li>• Monitor information systems for potential anomalies or security incidents;</li> <li>• Ensure electronic records are secured and physical records are not maintained at a remote location;</li> <li>• Provide information security awareness (remote work) training to all employees as part of initial training and annually.</li> </ul> </li> </ul>	<p>Company – <a href="#">7 TAC §80.206(c)</a> Banker – <a href="#">7 TAC §81.206(c)</a></p>
<p><b>Advertisements</b></p> <ul style="list-style-type: none"> <li>• Missing originator NMLS ID</li> <li>• Missing company name and NMLS ID</li> <li>• Website / Social Media - Missing the <a href="#">Texas Consumer Complaint/Recovery Fund Notice (TX Notice)</a>.</li> </ul>	<p>Company - <a href="#">7 TAC §80.203</a> Banker - <a href="#">7 TAC §81.203</a></p>
<p><b>Conditional Letters</b></p> <ul style="list-style-type: none"> <li>• <u>Missing required information</u>: Pre-Qualification, Qualification, Pre-Approval and Approval Letters must include all the information contained in either Form A (Conditional Pre-Qualification) or Form B (Conditional Approval).</li> <li>• <u>Incomplete Forms</u>: Form A or Form B was used; however, sections of the Form were incomplete or left blank.</li> <li>• <u>Incomplete Customized Letters</u> were created; however, the customized letter lacked the required information. Customized letters must contain the information contained in either Form A or Form B.</li> <li>• <u>Outdated Letters</u> - Form A or Form B was used; however, the Form was the outdated version. Effective May 1, 2020, the required elements for Conditional Letters were changed.</li> </ul>	<p>Company - <a href="#">7 TAC §80.201</a> Banker - <a href="#">7 TAC §81.201</a></p>

<ul style="list-style-type: none"> <li>• <u>Forms were issued in every loan file.</u> Conditional Letters / Forms are not required to be issued; however, if a Conditional Letter or Form is issued, it must include the information contained in either Form A or Form B, and the Form must be fully completed.</li> </ul>	
<p><b>Texas Mortgage Company / Banker Disclosure</b></p> <ul style="list-style-type: none"> <li>• Incorrect Disclosure provided to the applicants: <ul style="list-style-type: none"> <li>○ The Mortgage Company Disclosure is required to be issued by originators sponsored by a Mortgage Company Licensee.</li> <li>○ The Mortgage Banker Disclosure is required to be issued by originators sponsored by a Mortgage Banker Registrant.</li> </ul> </li> <li>• No Disclosure was provided to the applicants.</li> </ul>	<p>Company - <a href="#">7 TAC §80.200(a)</a>  Banker - <a href="#">7 TAC §81.200(a)</a></p>
<p><b>Unlicensed Independent Contract Processor</b></p> <ul style="list-style-type: none"> <li>• Independent contract processor (1099 or paid directly at closing) provides processing services and is not properly licensed in Texas.</li> <li>• An independent contract processor is licensed in a different state but is not licensed in Texas.</li> <li>• A Mortgage Company hires an individual, who is not properly licensed in Texas, to perform administrative and processing functions.</li> </ul>	<p><a href="#">Tex. Fin. Code, §180.051(b); §180.002(11); and §180.002(1).</a></p>
<p><b>Unlicensed Activity – Residential Mortgage Loan Originator (RMLO)</b></p> <ul style="list-style-type: none"> <li>• An individual originates mortgage loans without obtaining a license in Texas or before their originator license is approved.</li> <li>• An originator is licensed in a different state but is not licensed in Texas.</li> <li>• An originator begins accepting applications, offering or negotiating mortgage loans before receiving Temporary Authority from Texas (e.g., An individual assumes they have Temporary Authority, but they did not submit an application requesting Temporary Authority from Texas or did not meet the requirements).</li> <li>• An individual is accepting applications, offering or negotiating mortgage loans in Texas with an expired license or failed to renew their license timely.</li> </ul>	<p><a href="#">Tex. Fin. Code §157.012</a></p>
<p><b>Incomplete Files (Record-keeping)</b></p> <ul style="list-style-type: none"> <li>• Missing initial loan application (1003)</li> <li>• Missing final, executed Closing Disclosure (mortgage companies)</li> <li>• Insufficient loan files – missing disclosures, documentation, invoices, etc. (brokered files)</li> </ul>	<p>Company - <a href="#">7 TAC §80.204</a>  Banker - <a href="#">7 TAC §81.204</a></p>
<p><b>Adverse Action Notice (mortgage companies)</b></p> <ul style="list-style-type: none"> <li>• No record of an Adverse Action Notice being sent to the applicant.</li> <li>• Incomplete Adverse Action Notice – The Adverse Action Notice did not include the required elements (e.g., the reason for denial, credit scores, range of possible credit scores or the name, address, and telephone numbers of the consumer reporting agencies).</li> <li>• Adverse Action Notice did not include the name and address of the Federal Agency that administers compliance with ECOA (Federal Trade Commission).</li> </ul>	<p><a href="#">§615(a) of the Fair Credit Reporting Act [15 U.S.C. § 1681g]</a>   <a href="#">Regulation B, 12 C.F.R. §1002.9</a></p>
<p><b>Initial Privacy Notice (mortgage companies)</b></p> <ul style="list-style-type: none"> <li>• Incomplete Notices – The Initial Privacy Notice contained insufficient information or blank sections.</li> <li>• The Notice is missing entirely or is not provided to the applicants.</li> </ul>	<p><a href="#">Regulation P, 12 C.F.R. §1016.4</a></p>

<p><b>Notice of Penalties for Making False or Misleading Statement Disclosure</b></p> <ul style="list-style-type: none"> <li>• The Notice is missing entirely or is not provided to the applicants.</li> <li>• The Notice is signed prior to closing (must be signed at closing).</li> </ul>	<p><a href="#">Tex. Fin. Code, §343.105</a></p>
<p><b>Bank Secrecy Act – Anti-Money Laundering (AML) Program</b> (mortgage companies)</p> <p>Program lacking the required criteria:</p> <ul style="list-style-type: none"> <li>• Identifies policies, procedures and internal controls;</li> <li>• Designates an AML compliance officer;</li> <li>• Provides for ongoing training;</li> <li>• Provides for independent testing; and</li> <li>• Details procedures for filing SARs.</li> </ul>	<p><a href="#">§1029.210 and §1029.320 of Title 31, Code of Federal Regulations, Chapter X</a></p>
<p><b>Identity Theft Prevention Program / Red Flags Rule</b></p> <p>Program lacking the required criteria:</p> <ul style="list-style-type: none"> <li>• Tailored appropriately to size and complexity of company;</li> <li>• Identifies relevant patterns, practices, and forms of red flags;</li> <li>• Incorporates business practices to detect red flags;</li> <li>• Details responses to red flags to prevent and mitigate identify theft; and</li> <li>• Provides for periodic updating to reflect changes in risks.</li> </ul>	<p><a href="#">Section 615 (e) of the Fair Credit Reporting Act and 16 Code of Federal Regulations, Part 681</a></p>
<p><b>Written Service Providers List</b></p> <ul style="list-style-type: none"> <li>• No provider listed for a service for which applicants were permitted to shop. The List must include service providers for fees disclosed in Section C of the Loan Estimate.</li> <li>• The Written Service Providers List did not include providers offering services in Texas.</li> <li>• The contact information for the service provider is missing.</li> </ul>	<p><a href="#">TILA Regulation Z, 12 C.F.R. § 1026.19(e)(1)(vi)(C)</a></p>