

Mortgage Compliance Guide

Each company/originator must maintain complete and readily accessible records, including a current and complete mortgage transaction log, policies and procedures, required booklets, advertising and marketing materials, compensation agreements / contracts, and complete loan files.

It is important for the originator to obtain and maintain complete loan files for their records. This means that the originator of a brokered loan must retrieve the loan package from the lender's portal immediately following loan closing. Keep in mind that the lender may only provide access to the loan file for a limited period of time. Furthermore, the loan files must contain the signed and executed copies of certain disclosures, as applicable.

The Department ("SML") conducts routine compliance examinations. Compliance examinations are the primary means SML uses to determine whether a mortgage company or mortgage banker and its sponsored originators are meeting the responsibility of compliance with the requirements and guidelines of consumer protection laws and regulations. When a company is due for examination, an SML examiner will contact the Qualifying Individual for mortgage company licensees, or, for mortgage banker registrants, the Primary Consumer Complaint (Regulator) Contact designated in NMLS.

Transaction Log

A mortgage transaction log must be maintained on a current basis (which means all entries must be made within no more than 7 days from the date on which the matters they relate to occurred). At a minimum, the log must include:

- (A) the name and contact information of each mortgage applicant;
- (B) the date of the initial loan application;
- (C) the full name of the originator who took the initial loan application, and his or her NMLS identification number;
- (D) a description of the purpose for the loan (e.g., purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.);
- (E) a description of the owner's or prospective owner's intended occupancy of the real estate secured or designed to be secured by the loan (e.g., primary residence (including real estate (land lot) or a dwelling not suitable for occupancy at the time the loan is consummated but that the owner intends to occupy as their primary residence after consummation of the loan), secondary residence, or investment property (no intent to occupy as their residence));

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(F) the lien type (e.g., first lien, second lien, or wrap mortgage);

(G) a description of the current status or disposition of the loan application (e.g., in-process, withdrawn, closed, or denied); and

(H) if the loan is closed, the identity of the person who initially funded and/or acquired the loan.

Loan File List

Licenses are required to maintain readily accessible and sortable records. To facilitate this record-keeping requirement, loan files should be maintained in an organized manner by either consolidating all documents into one PDF file or clearly labeling each document within one loan file folder.

The following documentation must be maintained by the originator in each loan file, including brokered loans. The list is not all-inclusive. As part of a compliance examination, the examiner may need to request additional documentation.

Brokered and Lender Files

If Texas law requires a particular state-specific disclosure, the model disclosure will be found in the hyperlink.

- Initial and Final Loan Applications (signed/dated by applicant(s) and RMLO)
- [Texas Mortgage Company Disclosure](#) (Company license type) or [Texas Mortgage Banker Disclosure](#) (Banker registration)
- Borrower's Authorization to receive electronic documents
- Intent to Proceed Documentation
- Initial and Revised Loan Estimates (signed or evidence of delivery)
- Documentation of Changed Circumstances (if applicable)
- List of Homeownership Counseling Organizations
- Service Provider List
- Initial Privacy Notice
- Conditional Letters (if applicable – Pre-Qualification / Qualification/ Pre-Approval / Approval)
 - Sample forms can be found at <https://www.sml.texas.gov/mortgage-origination/>
- Credit Report(s)
- Credit Report Invoice(s)
- Credit Score Disclosure
- Appraisal
- Appraisal Invoice
- Copies of invoices and proof of payment for fees collected outside of closing
- Credit card authorization forms (if applicable)
- Processor Invoice (if applicable)

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- Real Estate contract (for purchases)
- Affiliated Business Disclosure (as required)
- [Multiple Role Disclosure](#) (as required)
- Copies of Refund Checks
- Fee Agreement
- Rate Lock Agreement
- Adverse Action Notice (if applicable)
- [Texas Notice of Penalties for Making False or Misleading Statement](#) (signed at closing)
- All Closing Disclosures issued (Preliminary / Revised / Final (signed))
- Certificate of Counseling (if HOEPA)
- ECOA Appraisal Notice (if Reverse Mortgage)
- GFE(s) / HUD-1 Settlement Statement (if Reverse Mortgage)
- [Wrap Mortgage Loan Disclosure](#) (if Wrap Mortgage)
- [Tex. Prop. Code §5.016 Notice](#) (issued to pre-existing lienholder - if Wrap Mortgage)

Lender Files (in addition to items listed above)

- Ability-to-Repay documentation
- Lender's Title Policy with premium amount listed or title invoice
- Verification of Employment / Self Employment
- Verification of Income
- Verification of Deposit
- Flood certification
- ARM Program Disclosure (if applicable)
- [Texas Home Equity Disclosure](#) – 50(a)(6) (as required)
- [Texas Notice Concerning Refinance of Existing Home Equity Loan to Non-Home Equity Loan](#) – 50(f)(2) (as required)
- Promissory Note, Loan Agreement, or similar document
- Deed of Trust, Security instrument, or similar document (recorded)
- Notice of Right to Rescind signed by the borrowers (if applicable)
- Servicing Disclosure Statement (if Reverse Mortgage)
- [Texas Constitution Reverse Mortgage Disclosure](#) – Section 50(k)(9) "Important Notice to Borrowers Related to Your Reverse Mortgage" (if Reverse Mortgage)
- Certificate of Counseling (if Reverse Mortgage or HOEPA)
- Total Annual Loan Cost Rate (if Reverse Mortgage)

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Compliance Program

The following is a list of required* and recommended policies and programs. Some of the policies and procedures include a hyperlink. The hyperlink will redirect you to the applicable resource that will be useful in creating, developing, and maintaining compliant policies and procedures.

- [Anti-Money Laundering Program](#)*
- [Identity Theft Prevention Program “Red Flags Rule”](#)*
- [Information Security Program](#)*
- [Loan Originator and Lender Compensation Agreements](#)*
- [Remote Work Policy \(if allow remote work\)](#)*
- [Ability-to-Repay Underwriting Policies](#)
- Quality Control Policy / Compliance Manual
- Advertising / Social Media Policy
- E-Sign Act Procedures
- Personnel Administration / Employee Policies

* The Anti-Money Laundering Program, Identity Theft Prevention Program (Red Flags Rule), Loan Originator and Lender Compensation Agreements, and Information Security Plan are required by federal law. The Remote Work Policy is required by state law if your company allows staff to work remotely. If your operation lacks any of these written Programs at the time of the examination, these issues will be cited as deficiencies in the examination report. Similarly, if any written Program fails to meet minimum content requirements, this will be cited as a deficiency. Consult the hyperlinks above for information regarding minimum requirements for each program.

For Texas statute and regulation references, please visit www.sml.texas.gov/mortgage-origination/laws/ or for compliance resources, visit www.sml.texas.gov/mortgage-origination/examination/.

Federal regulations can be found at www.consumerfinance.gov/eregulations/.

Mortgage Call Reports

Companies are required to submit quarterly Mortgage Call Reports through NMLS.

Residential Mortgage Loan Activity (RMLA) is due quarterly, within 45 days of the end of the calendar quarter. The due dates are as follows:

- Q1 data (January 1 - March 31) is due May 15
- Q2 data (April 1 - June 30) is due August 14
- Q3 data (July 1 - September 30) is due November 14
- Q4 data (October 1 - December 31) is due February 14

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Financial Condition (FC) – This component collects financial information at the company level.

- FC for standard filers – Due annually, within 90 days of your company’s Fiscal Year End as reported in the Company (MU1) Form
- FC for expanded filers – Due quarterly at the same time as the RMLA

For more information regarding Mortgage Call Reports or licensing, visit the [NMLS Resource Center](#).