

## Mortgage Compliance Guide

Version 8 (March 5, 2024)

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, vendor 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 documents 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 signed and executed copies of 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 the Primary Consumer Complaint (Regulator) Contact designated in NMLS for mortgage banker registrants.

Compliance examinations are conducted through the State Examination System (SES). SES is a secure online platform that manages the end-to-end workflow for examinations. SES was developed by the Conference of State Bank Supervisors (CSBS), the same organization behind the Nationwide Multistate Licensing System (NMLS). Just as NMLS supports the licensing process of state regulators and their licensed/registered companies, SES is now supporting the supervision process. [Click here](#) to access the SES Examinations Resources for Companies. This webpage provides videos and other training resources on how to use the system.

### 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). The mortgage transaction log should include the following information:

- Loan number
- Applicant name
- Applicant contact information
- Initial loan application date
- Loan Originator name (Originator that took the initial loan application)

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- Loan Originator NMLS ID
- Loan purpose (purchase, refinance, construction, home equity, home improvement, land lot loan, wrap mortgage loan, etc.)
  - Identify the Texas cash-out home equity loans (50(a)(6)) and refinance of Texas cash-out home equity loans (50(f)(2))
- Loan product (conventional, FHA, VA, reverse, etc.)
- Loan type (fixed, ARM, etc.)
- Loan term
- Lien position (first lien, second lien, or wrap mortgage)
- Occupancy type (primary, secondary or investment)
- Status (closed, denied, in-process, or withdrawn)
- Closing date
- Lender name

### **Loan File List**

Licenses are required to maintain records that are accurate, complete, current, legible, and readily accessible and sortable. 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.

Licenses are required to maintain and provide complete loan files. Some of the documentation that must be maintained by the originator in each loan file, including brokered loans, is shown below. Although lenders may issue certain disclosures, brokers are required to maintain their own complete loan records. Consequently, both lenders and brokers are required to provide, at minimum, all applicable documents listed below. The list is not all-inclusive. As part of a compliance examination, the examiner may need to request additional documentation.

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

- Initial and Final Loan Applications (signed/dated by applicant(s) and RMLO)
- [Texas Mortgage Company Disclosure](#) (Company License) 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
- Settlement Service Provider List
- Initial Privacy Notice

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- Conditional Letters (if applicable – Pre-Qualification / Qualification / Pre-Approval / Approval)
  - Sample forms can be found at [www.sml.texas.gov/mortgage-origination/#forms](http://www.sml.texas.gov/mortgage-origination/#forms)
- Loan correspondence (e.g., e-mails, correspondence log, loan origination system electronic notes)
- Electronic transmission records including timestamp and details of all documents electrically transmitted and/or signed
- Any records involving the origination of the loan including journal entries or notes and documents addressing loan conditions imposed by the lender
- Disbursement records for amounts paid at closing or outside of closing
- Credit Report(s)
- Credit Report Invoice(s)
- Credit Score Disclosure and Notice to the Home Loan Applicant
- Appraisal
- Appraisal Invoice (itemized to show appraisal management fee)
- Copies of invoices and proof of payment for fees collected outside of closing
- Credit card authorization forms (if applicable)
- Processor Invoice (if applicable)
- Vendor agreements/contracts
- 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))
- Ability-to-Repay documentation including supporting documentation
- Credit qualifying documentation (income, assets, other)
- Verification of Employment / Self-employment (lender or, if provided by the lender)
- Verification of Income (lender or if provided by the lender)
- Verification of Deposit (lender or if provided by the lender)
- Lender's Title Policy with premium amount listed or title invoice (lender or if provided by the lender)
- Flood certification (lender or if provided by the lender)
- ARM Program Disclosure (if applicable)
- Promissory Note, Loan Agreement, or similar document (lender or if provided by the lender)

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- Deed of Trust, Security Instrument, or similar document (recorded) ( lender or provided by the lender)
- Notice of Right to Rescind signed by the borrowers (if applicable)
- [Texas Home Equity Disclosure](#) – 50(a)(6) (as required)
- Executed Power of Attorney (if applicable)
- Acknowledgement of Fair Market Value – 50(a)(6) (as required)
- Discount Point Acknowledgement or other documentation to demonstrate that the discount points are bona fide - 50(a)(6) (as required)
- [Texas Notice Concerning Refinance of Existing Home Equity Loan to Non-Home Equity Loan](#) – 50(f)(2) (as required)
- ECOA Appraisal Notice (if Reverse Mortgage)
- GFE(s) / HUD-1 Settlement Statement (if Reverse Mortgage)
- 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)
- [Wrap Mortgage Loan Disclosure](#) (if Wrap Mortgage)
- [Tex. Prop. Code §5.016 Notice](#) (issued to pre-existing lienholder - if Wrap Mortgage)

### **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

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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 additional information and resources, visit the links below:**

Texas statute and regulation references: [www.sml.texas.gov/mortgage-origination/laws/](http://www.sml.texas.gov/mortgage-origination/laws/)

Compliance resources: [www.sml.texas.gov/mortgage-origination/examination/](http://www.sml.texas.gov/mortgage-origination/examination/)

Forms and Disclosures: <https://www.sml.texas.gov/mortgage-origination/#forms>

Frequently Asked Questions: [www.sml.texas.gov/mortgage-origination/faqs/](http://www.sml.texas.gov/mortgage-origination/faqs/)

Federal regulations: [www.consumerfinance.gov/eregulations/](http://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

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