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Sample

Section 1 General

1.1 Statement of Purpose

[Sample Client] designed these policies and procedures to safeguard its legal responsibility to comply with applicable residential lending laws and regulations. The [board of directors](#) and senior management, through a sound [Compliance Management System](#), ensure the integration of these policies and procedures into the overall framework for product design, delivery and administration across the residential lending origination and service life cycle. Management and employees utilize these policies and procedures to guide their daily responsibilities to effect mitigation of regulatory compliance risk within their job roles.

1.2 Objective

The guidance in this policy and procedure guide applies throughout [Sample Client]'s operations with the objective to mitigate regulatory risk and consumer harm within the standards of [Sample Client]'s compliance program. [Sample Client] requires employees, contractors, and [third-party vendors](#) to comply with these policies and procedures.

1.3 State Law and Agency Guidelines

Federal law may alter, affect, or preempt state laws that are inconsistent with the federal law. Preemption applies only to the extent of the inconsistency. A state law is not inconsistent if it is more protective of a consumer. Wherever state law or local regulations overlap and provide greater consumer protections than federal law or the requirements set out in this guide, [Sample Client] will comply with the more protective law or regulation and will consult with the appropriate legal counsel to set forth [Sample Client]'s policies and procedures for compliance.

In some instances, agencies may overlay guidelines that expand upon the requirements of federal law. [Sample Client] must be cognizant of agency guidelines and incorporate those guidelines into [Sample Client]'s policies and procedures.

Section 2 Summary

Regulation F implements the Fair Debt Collection Practices Act (FDCPA), prescribing federal rules governing the activities of [debt collectors](#).

The Fair Debt Collection Practices Act (FDCPA) is a United States statute added in 1978 as Title VIII of the Consumer Credit Protection Act. Of all federal regulations, this is most critical to consider when servicing consumer loans in a delinquency or default status.

The Consumer Finance Protection Bureau (CFPB) and the Federal Trade Commission (FTC) share authority to enforce the FDCPA.

The following are the primary purposes of the FDCPA:

- Eliminate abusive, deceptive, and unfair debt collection practices by debt collectors in the collection of consumers' [debts](#)
- Promote fair debt collection so that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged
- Provide [consumers](#) with an avenue for disputing and obtaining validation of debt information to ensure the information is accurate
- Promote consistent state action to protect consumers against debt collection abuses

2.1 Coverage

FDCPA applies only to the collection by a debt collector of debts incurred by a consumer primarily for personal, family, or household purposes. It does *not* apply to commercial debt or debts owed for business or agricultural purposes.

For purposes of this policy and procedure guide, [Sample Client] meets the regulatory definition of debt collector or has chosen to comply with the requirements of the FDCPA and implementing Regulation F as a best practice.

Section 3 Requirements

3.1 Communication for Debt Collection

Acquisition of [location information](#) under FDCPA deals with [Sample Client] communicating with a person other than the consumer for the purpose of acquiring location information for the [consumer](#).

For the purposes of this section, “consumer” includes the following:

- The [consumer’s spouse](#)
- The [consumer’s parent](#), if the consumer is a minor
- The consumer’s legal guardian
- The [executor or administrator](#) of the consumer’s estate if the consumer is deceased
- A confirmed [successor in interest](#)

3.2 Communication with the Consumer

[Sample Client] must comply with the following prohibitions when communicating or attempting to [communicate](#) with a consumer in connection with the collection of any [debt](#).

Unusual or Inconvenient Times or Places

[Sample Client] must not communicate or [attempt to communicate](#) with a consumer in connection with the collection of any debt as follows:

- At any unusual time, or a time which [Sample Client] should know is inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a time before 8:00 a.m. and after 9:00 p.m. local time at the consumer’s location is inconvenient.
- At any unusual place, or at a place [Sample Client] knows or should know is inconvenient to the consumer.

Consumer Representation by an Attorney

[Sample Client] must not communicate or attempt to communicate with a consumer in connection with the collection of any debt if [Sample Client] is aware the consumer is represented by an attorney and has knowledge of, or can readily ascertain, the attorney’s name and address, unless one of the following applies:

- The attorney fails to respond within a reasonable time to a [communication](#) from [Sample Client]’s collection representative.

- The attorney consents to direct communication with the consumer.

Consumer's Place of Employment Prohibition

[Sample Client] must not communicate with the consumer in connection with the collection of any debt, if [Sample Client] knows or has reason to know the consumer's employer prohibits the consumer from receiving such communication.

Exceptions

The above prohibitions do not apply when the [Sample Client] communicates or attempts to communicate with a consumer in connection with the collection of any debt with either of the following:

- Prior consent of the consumer, given directly to [Sample Client] during a communication not prohibited above
- Express permission of a court of competent jurisdiction

3.2.1 Electronic Communication

[Sample Client] must maintain reasonable procedures to avoid a bona fide error in sending an electronic communication resulting in delivery to any person prohibited from receiving such communication.

E-mail Communication

[Sample Client] may communicate with the consumer by sending a message to an e-mail address if certain requirements are met.

Requirements for Communication between a Consumer and [Sample Client]

[Sample Client] may communicate with the consumer to an e-mail address if both the following apply:

- The consumer used the e-mail address to communicate with [Sample Client] about the debt and the consumer has not since opted out of communications to that e-mail address.
- [Sample Client] received directly from the consumer prior consent to use the e-mail address to communicate with the consumer about the debt and the consumer has not withdrawn that consent.

Requirements for Communication by the Creditor

The [creditor](#) may communicate with the consumer to an e-mail address if all the following apply:

- The creditor obtained the e-mail address from the consumer.

3.7 Other Prohibited Practices

3.7.1 Required Actions Prior to Furnishing Information

[Sample Client] must not furnish to a consumer reporting agency information about a debt before [Sample Client] performs one of the following actions:

- Speaks to the consumer about the debt in person or by telephone.
- Places a letter in the mail or sends an electronic message to the consumer about the debt and waits a reasonable period to receive a notice of undeliverability. During the reasonable period, [Sample Client] must permit receipt of, and monitor for, notifications of undeliverability from communications providers. If [Sample Client] receives such a notification during the reasonable period, [Sample Client] must not furnish information about the debt to a consumer reporting agency until [Sample Client] speaks to the consumer about the debt in person or by telephone.

3.7.2 Prohibition on Sale, Transfer, or Placement for Collection

[Sample Client] must not sell, transfer for consideration, or place for collection a debt if [Sample Client] knows or should know that the debt has been paid or settled or discharged in bankruptcy.

This prohibition does not prohibit the securitization of a debt or the pledging of a portfolio of debt as collateral in connection with a borrowing.

3.7.2.1 Exceptions

[Sample Client] may transfer for consideration a debt if the transfer is for one of the following purposes:

- Transfer of the debt to the debt's owner
- Transfer of the debt to a previous owner of the debt, if the transfer is authorized under the terms of the original contract between [Sample Client] and the previous owner
- Transfer the debt because of a merger, acquisition, purchase and assumption transaction, or a transfer of substantially all [Sample Client]'s assets

3.7.2.2 Secured Claims Bankruptcy

[Sample Client] may sell, transfer for consideration, or place for collection a debt that has been discharged in bankruptcy if the debt is secured by an enforceable lien and [Sample Client] notifies the transferee that the consumer's personal liability for the debt was discharged in bankruptcy.

3.8 Notice for Validation of Debt

[Sample Client] must provide certain information when first communicating with a borrower or within five days. When [Sample Client] provides this information electronically or in writing, it is called a validation notice. The purpose of the validation notice is to validate the debt information to help the borrower recognize whether the debt is theirs and dispute the debt if it is not theirs.

3.8.1 Validation Information

[Sample Client] must provide the following validation information:

- [Sample Client] communication disclosure which discloses that [Sample Client] is attempting to collect a debt, and that any information obtained will be used for that purpose.
- Information about the debt including all the following:
 - [Sample Client]'s name and the mailing address of the location that accepts disputes and requests for original credit information
 - Consumer's name and mailing address
 - Name of the creditor to whom the debt was owed on the [itemization date](#)
 - Account number associated with the debt
 - Name of the creditor to whom the debt is currently owed
 - Itemization date, which may be one of the following, as established by [Sample Client]:
 - Last statement date
 - Charge-off date
 - Last payment date
 - Last transaction date
 - Judgement date
 - Amount of the debt on the itemization date
 - Itemization of the current amount of the debt disclosing categories of information since the itemization date:
 - Interest
 - Fees
 - Payments
 - Credits
 - Current amount of the debt