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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 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

The National Flood Insurance Program (NFIP) is primarily administered under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act (FDPA) of 1973.

2.1 National Flood Insurance Program

The NFIP, created through the National Flood Insurance Act of 1968, enables property owners in participating communities to purchase federally backed insurance protection against losses from flooding.

The following are the objectives of the NFIP:

- Provide adequate amounts of federally subsidized flood insurance to owners of improved real property located in special flood hazard areas
- Reduce property and financial loss by working with communities that participate in the NFIP to require proper construction and land use practices
- Provide a preventative alternative to massive amounts of federal disaster relief normally made available to flood-stricken areas by implementing flood hazard mapping

Federal flood insurance is only available if the community participates in the NFIP and local government adopts adequate floodplain management regulations and minimum standards for floodplain areas as set out by the NFIP.

2.2 Flood Disaster Protection Act of 1973

The FDPA amended the NFIP and makes the purchase of flood insurance mandatory to protect properties located in [Special Flood Hazard Areas](#) (SFHAs).

Additionally, the FDPA amended the National Flood Insurance Act of 1968 to require federal banking agencies to issue regulations instructing their regulated financial institutions not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located, or to be located, in an SFHA where flood insurance is available under the NFIP, unless the building or mobile home and any personal property securing the loan are covered by the minimum required amount of flood insurance for the term of the loan.

The mandatory flood insurance purchase requirements of the FDPA were significantly amended with the passage of the Biggert-Waters Flood Insurance Reform Act of 2012, the Homeowner Flood Insurance Affordability Act of 2014, and the Private Flood Insurance Rule

Section 3 Requirements

Flood insurance, issued through the NFIP or a private insurance provider, is required on the improved real property for the minimum amount of flood insurance and required for the term of the loan on buildings or mobile homes when [Sample Client] makes, increases, extends, or renews any loan secured by improved real property located in an [SFHA](#).

Unless an exception applies, flood insurance is required if all the following criteria are met:

- The loan is secured by improved real estate or a mobile home that is affixed to a permanent foundation.
- The property securing the loan is located or will be located in an SFHA.
- The community in which the property is located participates in the NFIP.

3.1 Community Participation

Communities identified by FEMA as areas with special flood hazards may elect to participate in the NFIP. However, participation is voluntary and communities must apply to participate. If the community does not participate, federal flood insurance coverage under the NFIP is not available and federal disaster assistance may also be unavailable or limited.

Federal agency lenders such as the SBA, FHA, and VA will not subsidize, insure, or guarantee any loan if the property securing the loan is in an SFHA of a community not participating in the NFIP. In addition, Freddie Mac and Fannie Mae will not purchase mortgages secured by improved properties located in SFHAs in nonparticipating communities.

[Sample Client] should carefully evaluate the risk in making a loan without NFIP flood insurance coverage and with limited available federal disaster assistance. [Sample Client] may require the purchase of [private flood insurance](#), if available.

3.2 Table Funded Loan Requirements

A loan acquired from a mortgage broker or other third party through a table funded transaction is considered “making” a loan and subject to the flood insurance regulations.

For flood hazard determination purposes, the party advancing the funds is treated as the originator. The funding entity may delegate to the broker or mobile home dealer the responsibility for the flood hazard determinations and the borrower notices or may split these responsibilities with the broker or dealer.

3.8 Private Flood Insurance Coverage

Private flood insurance may satisfy the requirement for flood insurance. [Sample Client] is subject to requirements for mandatory acceptance and discretionary acceptance of private insurance policies.

3.8.1 Mandatory Acceptance

[Sample Client] is required to accept flood insurance policies that meet the Biggert-Waters Act statutory definition of private flood insurance. Policy acceptability may be based upon a substantive review of the policy or the use of a compliance aid statement.

3.8.1.1 Substantive Policy Review

[Sample Client] may evaluate the acceptability of a private flood insurance policy by a substantive review of the policy.

A private flood insurance policy must meet the following criteria:

- Is issued by an insurance company that is licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the state or jurisdiction in which the property to be insured is located
- Provide flood insurance coverage at least as broad as the coverage provided under a Standard Flood Insurance Policy (SFIP) issued under the NFIP for the same type of property regarding deductibles, exclusions, and conditions offered by the insurer, including, but not limited to, the following:
 - Define flood to include the events defined as flood in an SFIP
 - Contain the coverage specified in an SFIP, including building property coverage; personal property coverage; other coverages; and increased cost of compliance coverage
 - Contain deductibles no higher than the specified maximum and include similar non-applicability provisions as under an SFIP for any total policy coverage amount up to the maximum available under the NFIP at the time the policy is provided to [Sample Client]
 - Provide coverage for direct physical loss caused by a flood and only exclude other causes of loss that are excluded in an SFIP
 - Limit exclusions that do not appear in an SFIP unless those exclusions apply to coverage that is in addition to the amount and type of coverage that could be provided by an SFIP or have the effect of providing broader coverage to the policyholder
 - Not contain conditions that provide coverage narrower than the coverage provided in an SFIP

3.14 Notice of Option to Escrow

When [Sample Client] must offer and make available to a borrower the option to escrow flood insurance premiums and fees, [Sample Client] is required to mail or deliver to the borrower a written notice of the option to escrow for required flood insurance.

The language in this notice must be similar to the language in the model clause of Appendix B of the regulations. The notice must also include the methods the borrower may use to request the escrow option. If [Sample Client] had a small lender exception and no longer qualifies for that small lender exception, [Sample Client] must mail or deliver the notice for any loan covered by flood insurance and outstanding on July 1 of the first calendar year in which the change in status occurred by September 30 of that year.

3.15 Force-Placed Insurance

Mortgage loan security instruments require borrowers to maintain adequate insurance on the collateral property. If at any time during the life of the loan, the borrower allows the coverage to lapse or refuses to provide the required amount of flood insurance, [Sample Client] must purchase the insurance on behalf of the borrower, referred to as force placed insurance.

If at any point during the life of a designated loan, [Sample Client] becomes aware that flood insurance is required, flood insurance requirements apply, including force-placing insurance, if necessary. Even if the borrower has purchased flood insurance that otherwise satisfies the flood insurance requirements, but the amount of coverage is insufficient, [Sample Client] must require insurance for the insufficient amount—the difference between the amount the borrower insured and the required amount of flood insurance.

3.15.1 Allowable Charges

All charges assessed to a borrower related to force-placed insurance must be bona fide and reasonable, meaning the charge is reasonably related to [Sample Client]'s cost of providing the service and is not otherwise prohibited by law.

[Sample Client] may not charge a borrower a premium or other fee related to force-placed insurance unless [Sample Client] has a reasonable basis to believe that the borrower failed to comply with the requirement to maintain hazard insurance.

In general, [Sample Client] must not charge a borrower for force-placed insurance until all the following take place:

Section 4 Origination Compliance

[Sample Client] origination must require flood insurance when making, renewing, increasing, or extending a [designated loan](#).

Generally, flood insurance is required by federal law when both of the following conditions apply:

- Some portion of the dwelling or the property securing the loan is located within an [SFHA](#).
- The property is located in a community that participates in the flood insurance program—[Emergency Program](#) or [Regular Program](#).

Properties located in a SFHA are identified by flood zones beginning with the letters A or V. If property is no longer in a SFHA due to a FEMA map change, flood insurance is no longer required.

Flood insurance is required on structures. Refer to [Structures Eligible for Flood Insurance under the NFIP](#) in this guide.

4.1 Standard Flood Hazard Determination

[Sample Client] is responsible for accurately determining if the subject property structure is located in a SFHA and if flood insurance is available. NFIP maps must be utilized to make the determination.

At the time of loan application, [Sample Client] must order form, [FEMA Form 086-0-32 - Standard Flood Hazard Determination Form \(SFHDF\)](#), to determine whether a building or mobile home securing a loan is or will be located in an SFHA where flood insurance is available. A flood zone is assigned to all properties, but not every property is located in an SFHA. SFHAs are identified by flood zones beginning with the letters A or V.

Refinance Transactions

In the case of a refinance of a loan that [Sample Client] originated, subject to conditions, [Sample Client] may rely upon a previous flood hazard determination.

Refer to [Use of Prior Determination](#) in this guide for details.

If [Sample Client] is refinancing a loan made by a different lender, a new determination is required.

Section 5 Servicing Compliance

[Sample Client] servicing must comply with the flood regulations as they apply to servicing operations.

5.1 Notice to the Administrator of FEMA

[Sample Client] must notify the Administrator of FEMA, or the insurance carrier acting as the Administrator's designee, in writing of the identity of the loan servicer and of any change in the servicer of a loan secured by a property in a [SFHA](#).

If [Sample Client] transfers servicing of loans to another servicer, it must provide notice of the new servicer's identity to the flood insurance carrier within 60 days of the effective date of the transfer of servicing. No standard form of notice is required and the notice may be provided electronically if electronic transmission is satisfactory to the insurance carrier. [Sample Client]'s notice of the servicer's identity must include the following details:

- New servicer name
- New servicer address
- Information sufficient to identify the security property and the loan

5.2 Mandatory Escrow Requirements

Unless [Sample Client] qualifies for an exception as a small lender or a loan qualifies for an exception based on loan type, the regulations require [Sample Client] to escrow for flood insurance premiums and fees for a [designated loan](#) secured by residential improved real estate or a mobile home made, increased, renewed, or extended on or after January 1, 2016.

If required to escrow for flood insurance under the flood insurance regulations, [Sample Client] must do so even if it does not escrow for taxes or other insurance. This requirement includes escrow for [force-placed insurance](#).

[Sample Client] or its servicer is not required to escrow for flood insurance for a loan secured by property not located in an [SFHA](#) for which a borrower chooses to buy flood insurance. However, [Sample Client] or its servicer may offer escrow service to the borrower.