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Section 1 General

1.1 Statement of Purpose

[Sample Client] designed these policies and procedures to safeguard their 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 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 policy, [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 Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act), implemented under Regulation G and a key component of the Housing and Economic Recovery Act of 2008, is designed to enhance consumer protection and reduce fraud by encouraging states to establish minimum standards for the licensing and registration of state-licensed mortgage loan originators (MLOs), and for the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) to establish and maintain a Nationwide Mortgage Licensing System and Registry (Registry or NMLSR) for the residential mortgage industry.

The following are the primary purposes of the SAFE Act:

- Improve consumer protection, reduce fraud, increase uniformity, and lessen regulatory burden
- Set goals and objectives for the NMLSR
- Require the NMLSR to facilitate the collection and distribution of consumer complaints
- Require residential mortgage originators to behave in a manner which serves the best interests of the consumer

2.1 Coverage

The SAFE Act applies to national banks, member banks, insured state nonmember banks, savings associations, Farm Credit System institutions, federally insured credit unions, as well as certain non-federally insured credit unions.

All consumer purpose loans primarily for personal, family, or household use and secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling are subject to the SAFE Act, including junior liens, home-equity lines of credit, and construction loans, as well as purchase loans, refinances, and reverse mortgages.

Modifications and refinancings can be covered depending upon the actual transaction. If the individual undertakes activities of a mortgage loan originator, then the modification or refinancing is covered by the SAFE Act.

Commercial loans are not subject to the SAFE Act.

Section 3 Requirements

3.1 Registered Mortgage Loan Originators

Each [Sample Client] employee who acts as a mortgage loan originator must register with the Registry, obtain a unique identifier, and maintain this registration. Any employee acting as a mortgage loan originator who is not in compliance with the registration and unique identifier requirements violates the SAFE Act.

3.2 State-Licensed Mortgage Loan Originators

Mortgage loan originators not employed by a federally regulated depository institution are required to register with the Registry, obtain a unique identifier, and obtain a state license.

3.2.1 Licensing Eligibility

The SAFE Act requires that for a person to be eligible for a license, that person must not have had a loan originator license revoked in any governmental jurisdiction and must not have been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court within the previous seven years or convicted of certain types of felonies at the time prior to application if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

The person must demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently.

The person must complete the pre-licensing education requirements, pass a written test, and meet either a net worth or surety bond requirement, or pay into a state fund, as required.

3.2.1.1 SAFE Act Minimum Training Standards

The SAFE Act establishes the federal minimum standards of at least 20 hours of prelicensing education that includes all the following:

- 3 hours of federal law and regulations
- 3 hours of ethics, including instruction on fraud, consumer protection, and fair lending issues
- 2 hours of training related to lending standards for the nontraditional mortgage product marketplace

3.4 Employees Previously Registered or Licensed through the Registry

When hiring an employee of a covered financial institution who was registered or licensed through, and has a unique identifier from, the Registry and has maintained this registration or license, [Sample Client] must ensure all the following requirements are met:

- The employment information is updated in the Registry.
- New fingerprints of the employee are submitted to the Registry for a background check, unless the employee has fingerprints on file with the Registry that are less than three years old.
- [Sample Client]'s information is adequately on file with the Registry.
- The employee maintains registration.

Acquisitions, Consolidations, Mergers, or Reorganizations

When registered or licensed mortgage loan originators become [Sample Client] employees as a result of an acquisition, consolidation, merger, or reorganization, new fingerprints are not required. However, all other requirements above must be met within 60 days from the effective date of the acquisition, merger, or reorganization.

3.5 Maintaining Registration

To maintain registration, a registered mortgage loan originator must comply with both the following requirements:

- Renew the registration during the annual renewal period, confirming employee information on file with the Registry

Excludes instances where the registered mortgage loan originator completed his registration less than six months prior to the end of the annual renewal period.

- Update the registration within 30 days of any of the following events:
  - A change in the name of the registrant
  - The registrant ceases to be an employee of [Sample Client]
  - Employee information on file with the Registry becomes inaccurate, incomplete, or out-of-date