

How to Use This Manual

The most significant area of risk in the mortgage banking industry is compliance liability. Lenders must understand and comply with a myriad of federal and state laws and regulations governing loan negotiation, origination, and servicing. The regulatory emphasis is on consumer protection — timely and accurate credit disclosures, how much is being charged as a cost of the credit, how the costs are being represented to the consumer, and the delivery of credit products and services in a fair manner. The mortgage banking industry's liquidity comes from two primary sources — warehouse lenders who provide funding to originate loans, and secondary market investors who purchase the loans and concern themselves with risk of assignee liability flowing from originators' compliance violations.

The risks that flow from compliance liability include creditor liability, in the form of costly lawsuits; assignee liability, in which the secondary market may also be vulnerable to lawsuits under consumer protection laws; and administrative enforcement, where agencies may seek injunctive relief, civil money penalties, supervisory agreements, and other enforcement actions.

This manual is designed to help lenders hedge compliance risk. It helps you identify the compliance requirements in complex consumer protection laws at the federal and state level, and in this sense, it helps you identify operational weaknesses affecting your bottom line. The manual is written for those who work at the policy and compliance level — the chief operating officer, the director of compliance, the director of quality control, the director of risk management, the director of secondary market, and the chief privacy officer or head of security. In mortgage banking, there is no uniformity in business operation or business plan. Each mortgage company has its different niche, and different business nuances. This manual keeps that diversity in mind and presents the material you need to know to develop your own policies and procedures that uniquely reflect your business. The guidelines and data in this manual can be adapted into your company's database and reporting formats.

The manual is organized in four parts. Part 1 contains a chapter that will help you get started on developing policies and procedures for your company. Because there is no uniformity in mortgage lending, we do not provide generic templates for your policies and procedures; instead, we provide guidance on the compliance issues you will need to address in putting together policies and procedures for your company. Part 2 addresses federal compliance issues. It provides an overview of federal laws and regulations that apply to mortgage procedures. Part 3 addresses federal compliance procedures. This section contains transactional chapters that outline the steps mortgage lenders must take to comply with federal law and regulations. Part 4 addresses state compliance procedures. It includes chapters on state licensing; requirements for maintaining books and records, including the minimum documentation that should be appearing in the loan file; state limitations on late charges; state prepayment penalty restrictions; state marital rights and signature requirements; trustee restrictions and requirements; wet settlement and good funds states; state escrow account requirements; state advertising requirements; and state predatory lending laws. In addition, a CD accompanies the manual. (Please see the order sheet enclosed with the manual for ordering your free CD.) Among the tools provided on the CD are sample maps, which are a visual tool for mortgage lenders to identify their policies based on the states in which they do business, predatory lending worksheets, and various forms and exhibits.