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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 Electronic Signatures in Global and National Commerce Act (E-Sign Act) and the Uniform Electronic Transaction Act (UETA) establish legal authority and procedures for [electronic signatures](#). The Consumer Financial Protection Bureau allows the disclosures required to be given in writing by several other regulations to be provided to the applicant in electronic form, subject to compliance with the [consumer](#) affirmative consent and other applicable requirements of the E-Sign Act.

2.1 Coverage

2.1.1 Uniform Electronic Transactions Act (UETA)

The Uniform Electronic Transactions Act (UETA), developed and recommended for enactment in July 1999 by the Uniform Law Commission (ULC), provides a legal framework for the use of electronic signatures and records in government or business transactions. UETA makes [electronic records](#) and signatures as legal as paper and manually signed signatures in transactions relating to business, commercial, and governmental affairs.

UETA aims to promote uniform electronic transaction laws among the states. The District of Columbia, the Commonwealth of Puerto Rico, the US Virgin Islands, and all states except New York have adopted UETA. New York has not adopted the uniform act; however, New York has statutes which pertain to electronic transactions.

Section 3 Requirements

[Sample Client] origination does not require the use of electronic signatures. However, when electronic signatures are used as an alternative to original signatures in the origination of a mortgage loan, [Sample Client] must provide the consumer required disclosures, receive affirmative consent from the consumer, and comply with technology requirements.

In compliance with the E-Sign Act, [Sample Client] must not accept an oral communication or a recording of an oral communication as an electronic record or electronic signature.

3.1 Consumer Disclosures and Consent

Key to the E-Sign Act and UETA are requirements for ensuring the affirmative consent to the use of [electronic records](#) and [electronic signatures](#), intent to sign, association of the signature with the record, and the retention of records.

3.1.1 Consent for Electronic Records and Signatures

Prior to obtaining the consumer's affirmative consent, [Sample Client] must provide the consumer a [clear and conspicuous](#) statement informing the consumer of the following:

- Any right or option to have the record provided or made available on paper or in a non-electronic form
- How the consumer may request a paper copy of a record and whether any fee will be charged for that copy
- Whether the consent applies only to the particular [transaction](#) that triggered the disclosure or to identified categories of records that may be provided during the consumer's relationship with [Sample Client]
- The right to withdraw consent, including any conditions, consequences, and fees in the event of such withdrawal
- The procedures the consumer must use to withdraw consent and to update information needed to contact the consumer electronically

During loan servicing, certain disclosures including mortgage transfer disclosures may be provided to the consumer in electronic form, subject to compliance with the [consumer](#) consent and other applicable requirements of the E-Sign Act.

Section 4 Origination Compliance

If electronic signatures are used as an alternative to original signatures in the origination of a mortgage loan, [Sample Client] origination must provide the consumer required disclosures, receive affirmative consent from the consumer, and comply with technology requirements.

[Sample Client] will not accept an oral communication or a recording of an oral communication as an electronic record or electronic signature.

4.1 Consumer Disclosures and Consent

[Sample Client] origination must comply with E-Sign Act and UETA requirements for affirmative consent to the use of [electronic records](#) and [electronic signatures](#), intent to sign, association of the signature with the record, and the retention of records.

Consumer Disclosure

Prior to obtaining the consumer's affirmative consent, [Sample Client] must provide the consumer a [clear and conspicuous](#) disclosure statement.

Refer to [Consent for Electronic Records and Signatures](#) in this guide for required content.

Technology Requirements Notice

Prior to obtaining consent to use an electronic record, [Sample Client] must provide a consumer with a statement of the hardware and software requirements for access to and retention of electronic records.

Refer to [Notice of Technology Requirements](#) in this guide for details.

4.2 Electronic Promissory Notes

[Sample Client] origination must comply with E-Sign Act standards for [electronic promissory notes](#) secured by real estate (eNotes). To treat an electronic version of a promissory note as the equivalent of a paper promissory note, [Sample Client] must conform to the E-Sign Act's requirements for creating, storing, and assigning [transferable records](#).

Refer to [Electronic Promissory Notes Secured by Real Estate](#) in this guide for requirements.

Section 5 Servicing Compliance

5.1 Consumer Consent

[Sample Client] servicing does not require a borrower to use [electronic signatures](#). However, during loan servicing, certain disclosures including mortgage transfer disclosures may be provided to the consumer in electronic form, subject to compliance with the [consumer](#) consent and other applicable requirements of the E-Sign Act.

Refer to [Consumer Disclosures and Consent](#) in this guide for requirements.

5.2 EFT Authorizations

[Sample Client] servicing must obtain appropriate [preauthorization](#) for electronic fund transfers for mortgage payments from the consumer through use of written or electronic signatures. If [Sample Client] processes any EFT using information from a check to initiate a transfer from a consumer's account, [Sample Client] must comply with the EFTA requirements to obtain the consumer's authorization—whether through appropriate notice for each transaction or notice on a mortgage payment coupon book with all the required disclosures.

5.3 Documents Excluded from Using E-Signatures

[Sample Client] servicing must prohibit the use of electronic signatures for any notice of “default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.” [Sample Client] must provide these notices in writing, delivered in accordance with applicable federal and state laws.