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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.

- Has not been subject to, or served with, a cease and desist order
- Has not been convicted of a misdemeanor or felony that would preclude licensure under the law of the application state
- Submitted an application to be a state-licensed loan originator in the application state
- Was registered in the Registry as a mortgage loan originator during the one-year period preceding the state licensing application date

3.3.2 Moving Interstate

A state-Licensed mortgage loan originator moving interstate is deemed to have temporary authority to act as a mortgage loan originator in an application state for the period described below if the individual meets all the following requirements:

- Has not had either of the following:
  - An application for a loan originator license denied
  - A loan originator license revoked or suspended in any governmental jurisdiction
- Has not been subject to, or served with, a cease and desist order
- Has not been convicted of a misdemeanor or felony that would preclude licensure under the law of the application state
- Submitted an application to be a state-licensed loan originator in the application state
- Is employed by a state-licensed mortgage company in the application state
- Was licensed in a state that is not the application state during the 30-day period preceding the state licensing application date

3.3.3 Temporary Authority Period

Temporary authority begins on the state licensing application date and ends on the earliest of the following:

- Date on which the individual withdraws the application to be a state-licensed loan originator in the application state
- Date on which the application state denies, or issues a notice of intent to deny, the application
- Date on which the application state grants a state license
- 120 days after the date on which the individual submits the application if the application is listed on the Registry as incomplete