

MMC MORTGAGE EXAMINATION MANUAL



MULTISTATE MORTGAGE COMMITTEE

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General

Introduction

The Multistate Mortgage Committee (MMC) is a representative body of state mortgage regulators appointed by the Conference of State Bank Supervisors (CSBS) and American Association of Residential Mortgage Regulators (AARMR) to represent the examination interests of the combined states under the Nationwide Cooperative Protocol and Agreement for Mortgage Supervision. The MMC's primary focus is on nationwide mortgage lenders and servicers operating in 10 or more states. The MMC has constructed this manual to promote transparency and consistency in its examinations of these Multistate Mortgage Entities (MMEs).

Structure and Use of the Manual

The Examination Manual is divided into several modules representing categories of examination interest. This introductory module provides fundamental background information and guidance on overall examination functions. Subsequent modules provide guidance on examination ratings, examination planning and administration, examination of a MME's financial condition, Compliance Management Systems (CMS), and forward and reverse mortgage loan origination and servicing activities. This manual also includes aids for the use of technology in the review of loan portfolios and the development of the Report of Examination (ROE).

The typical module is comprised of several sections that provide information and guidance on specific topics. Although the format of these sections may vary based on a module's content, the general format is as follows:

- Introduction – Provides relevant information regarding the examination area.
- Examination Objectives – Outlines the primary goals for examination in the respective area.
- Criteria and/or Guidance – Outlines applicable requirements, standards, or additional criteria relevant to the respective area.
- Examination Procedures – Provides procedural guidance for evaluating the matters within the examination area. Consistent with risk-based examination principles, procedures may be modified as needed based on the circumstances of the MME being examined.

Given the inherent diversity among MMEs and the dynamic nature of mortgage lending or servicing issues and concerns, the Examination Manual is not intended to cover all possible examination areas. The following sections provides the basic criteria, guidance, and procedures that will promote examination quality and consistency.

When using the Examination Manual, whether as part of a multistate examination team or while conducting an examination for a single state agency, examiners should use their

own professional experience and judgment, along with the guidance provided herein, to tailor examination activities to each MME examined. These examination aids may be modified when necessary, and they should be supplemented with additional examination techniques and workpapers as needed.

The Examination Manual has been assembled by the MMC and state working groups administered by the MMC. Sources consulted and used in forming the text of this manual include existing public documents, guidance, and examination manuals from state regulatory agencies, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve Board (FRB), the Bureau of Consumer Financial Protection (BCFP or CFPB), the Office of the Comptroller of the Currency (OCC), the Federal Financial Institutions Examination Council (FFIEC), the Financial Crimes Enforcement Network (FinCEN), the Federal Bureau of Investigations (FBI), Federal National Mortgage Association (FNMA or Fannie Mae), the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac), and the Department of Housing and Urban Development (HUD).

Revisions

This manual is subject to revision as needed, and all changes will be announced and made available to each regulatory jurisdiction. Any suggested revisions to this Examination Manual can be submitted via email for MMC consideration at MMCSupport@csbs.org.

Authority to Conduct Examinations

Common elements of state agencies' examination authority make it possible for multiple states to pursue a uniform examination and reporting goal. Additionally, many states have adopted specific language authorizing the sharing of information and resources with other states, effectively creating authority for multistate examinations. Prior to participating on a multistate examination, examiners should be familiar with the following:

1. Applicable governing law and associated rules.
2. The appropriate naming conventions and codifications of applicable law and rules.
3. The breadth and limits of the authorizing authority.
4. The agency's procedures for conducting examinations.
5. The MMC procedures for conducting examinations.

A multistate examination team will commonly examine the MME for compliance with applicable Federal Laws and Regulations. Most states have specific authority to examine for compliance with Federal Laws and Regulations. In some states, this authority is granted under general provisions. Additionally, the multistate examination team will commonly examine the MME's financial condition, compliance program, and the quality and performance of its board management and oversight. States participating in a multistate examination may have specific authorities to conduct such examinations but may also rely upon general authorities related to the evaluation of a MME's character and fitness.

Questions concerning the authority of an agency to conduct an examination should be directed to the appropriate representative of the state. Challenges to the authority of a multistate examination team to conduct an examination should be directed to the MMC.

Multistate Mortgage Entity (MME) Risk Profile

The MMC oversees the Risk Profiling Group (RPG) to fulfill the primary function of facilitating a risk-based approach to mortgage supervision. The RPG aids in identifying and assigning risk profiles to MMEs based on various financial and operational risk factors. Subject to the approval of the MMC, the specific objectives and responsibilities of the RPG include:

- A. Identifying and maintaining a list of MMEs by risk profile;
- B. Proposing the examination schedule for MMC adoption;
- C. Providing the quarterly RPG Scheduling Report to the MMC; and
- D. Assisting in the development and maintenance of mortgage data analytics tools and reports developed by CSBS staff as needed.

Role of the Examiner in Charge

Each multistate examination is assigned an Examiner-in-Charge (EIC) responsible for leading the examination and managing the preparation of the Report of Examination (ROE). The EIC, supported by a Single Point of Contact (SPOC), is responsible for planning the examination, assigning specific multistate work to state examiners, reviewing work performed by the multistate examination team, coordinating the work of specialists, identifying issues involving a MME's board and management oversight, compliance program, financial condition, and regulatory compliance; managing the preparation of the ROE, and maintaining communications with the MME, as well as with the SPOC and the MMC on the progress of the examination.

The EIC typically performs the following functions:

1. Finalize the scope of the examination by completing and maintaining the [Examination Plan](#) and conducts pre-examination meetings with the examination team.
2. Acts as point of contact with the MME; makes information requests on behalf of the multistate examination team; and receives information from the MME and makes information available to each participating state.
3. Assigns examination activities to the multistate examination team; tracks assignment completion; holds regular examination team meetings; coordinates onsite and offsite activities; coordinates travel planning for the multistate examination team as necessary.
4. Provides regular progress reports for the MMC's review.
5. Conducts exit meetings and oversees the completion of the multistate examination.

6. Manages the preparation of the ROE based upon the findings submitted by the participating states.

The SPOC typically performs the following functions:

1. Serves as a mentor/adviser to and between the EIC and examiners from the participating states. Also serves as a liaison to help strengthen communication between the EIC and MMC and EIC and participating states.
2. Acts as a resource to help address complex or sensitive issues.
3. Participates with the EIC in meetings conducted with the examination team and/or MME.
4. Reviews documents drafted by the EIC such as the [Examination Plan](#) and ROE.

If differences between members of a multistate examination team arise, the EIC should engage in progressive conflict resolution to mitigate conflicts. The EIC should attempt to resolve minor differences autonomously, escalating matters to the SPOC as necessary, and to the MMC where a resolution cannot be achieved by the EIC or SPOC. Any conflicts that might result in examination practices other than those approved by the MMC should be brought immediately to the MMC's attention.

MME Responsibilities during Multistate Examinations

A MME's cooperation with examinations and investigations is factored into the management component rating. However, if a MME refuses to provide applicable documents and information in a timely manner for exam purposes, participating states may take certain actions against the MME. It is important that examiners not allow a MME to extend the time required to produce needed information unless there is a valid reason for a delay. If the MME engages in a pattern of withholding records and information or fails to provide the requested information, the EIC should report the situation to the SPOC and MMC.

State laws will generally require that MMEs afford examiners full access to its premises, books, records, and information that the participating states deem necessary. The EIC is responsible for assisting the MME in understanding the requirements and obligations associated with a multistate examination.

MMC Examination Objectives

A multistate examination takes into consideration all significant compliance, operational, and financial factors. The overall objective of the examination process is to:

- Evaluate the MME's financial condition and quality of its board management and oversight.
- Ensure compliance with state and federal laws and regulations.
- Investigate possible consumer protection issues.
- Assess the MME's compliance management system or CMS.

Examination Scope

In scoping the examination, the EIC considers what issues the examination will cover, how deep the team will delve into issues, how extensive the time frame for review will be, and what type and how many transactions will be reviewed.

An examination typically consists of off-site preparation followed by an on-site examination of records and practices, including interviews of staff, and possibly borrowers. Following the on-site examination, the examination team will conduct exit meetings, complete unfinished areas of review, prepare the ROE, and evaluate any responses to examination issues provided by the MME. The [Examination Plan](#) is an important tool for identifying key areas for review regarding regulatory compliance, financial condition, management, and operations.

Compliance Risk Scoping

There are several factors the EIC should consider in determining examination scope for evaluating compliance risk in a MME. The participating states should provide a completed [Institution Supervisory Background and Examiner Profile Form](#) for the EIC to review as part of a scope analysis. Among other types of available information, the EIC should also consider prior exams, external audits, and complaints in determining scope. Compliance areas are then examined as necessary to make a reasonable determination of the MME's compliance with state and federal laws and regulations. Additionally, the MMC will provide the EIC with guidance regarding examination priorities to assist the EIC in making scope determinations.

Financial Risk Scoping

Determining the appropriate financial risk scope for a multistate examination involves the evaluation of several elements. In conjunction with the MME's supervisory history within each participating state, the EIC should consider the supervisory history of the MME throughout the state system. This includes consideration of the results of prior examinations relative to the MME's financial condition, as well as the review of publicly available financial information and financial data, policies and procedures, and other documentation submitted by the MME to the Nationwide Multistate Licensing System (NMLS). The MME's financial condition is then examined as necessary to make a reasonable determination of the MME's compliance with jurisdiction specific financial requirements or general provisions related to financial fitness.

Ultimately, the MMC's examinations objectives are met when the EIC conducts sufficient risk scoping and executes an examination plan that allows for an adequate determination of the MME's compliance and financial condition.

Planning and Administration

Mortgage Pre-Examination Planning

Pre-examination planning is the process of adequately planning for all examination related activities. The principal objectives of planning are to identify and prioritize high-risk areas in a MME's operation in order to facilitate a more efficient and effective allocation of examination resources. This planning is accomplished by identifying those areas that require examination coverage and determining the depth of that coverage.

The [MMC Examination Timeline](#) section provides guidance on the overall examination planning process including development and content of the resulting Examination Plan and supporting planning documents. That section also references the usage of examination related documents and templates used by the EIC, which include:

- [Examination Timeline](#) – A chronological list of action items required to conduct an MMC examination.
- [Institution Supervisory Background/Examiner Profile](#) – A document to capture participating examiners' background and experience, as well as background information from the participating states on the MME being examined. This form must be completed by each participating state;
- [Exam Notification Letter Template](#) – A cover letter for the initial information request sent to the MME prepared by the EIC;
- [Origination Information Request Template](#) and/or [Servicing Information Request Template](#) – An examination questionnaire template required to be completed by the MME being examined. The information request is created by the EIC, reviewed by the participating states, and finalized by the EIC before it is provided to the MME;
- [Master Request List Template](#) – A running list of follow up information requests to be sent to the MME and used to track follow up information requests. This document is maintained by the EIC;
- [Examination Plan](#) – Document detailing the examination scope, key deliverables, examiner assignments, and communication plan. This is prepared by the EIC and reviewed by the SPOC;
- **Exam Procedures** – Examination Procedures which cover these primary areas:
 - [Financial Condition](#)
 - [Compliance Management System](#) (Board Oversight and Management and Compliance Program)
 - [Mortgage Origination](#)
 - [Mortgage Servicing](#)
- [Uniform Exam Findings Template](#) – Template to be used by participating states to cite any federal or state-specific findings within the Report of Examination (ROE);
- [ROE Cover Letter Template](#) – Template for the cover letter to be used when sending out the ROE to a MME;

- [Origination ROE Template](#) and/or [Servicing ROE Template](#) – Template for the Report of Examination; and,
- [Closing Letter Template](#) – Letter to be sent to a MME by the EIC to formally close out the examination.

These examination related documents and templates can be found on the [MMC Mortgage Exam Supplements webpage](#).

Communication

Communication between examiners and their state agency supervisors throughout the examination process is essential and will aid in avoiding misunderstandings that might occur during report preparation and supervisory review activities. Therefore, the EIC is expected to hold regular meetings with the SPOC, Examination Team and the MMC (as discussed in [MMC Examination Timeline](#) to apprise the oversight body of progress and problems and receive additional direction as appropriate. The SPOC serves as the intermediary between the exam team and the MMC. As such, issues and progress should first be discussed with the SPOC and/or Liaison before the MMC. Since the EIC is typically agreed upon as a representative of the lead state and then assigned or allocated by that state, the EIC's state supervisors are encouraged to attend exam related conference calls.

The entire multistate examination team should participate in planning examination activities. To the extent practical, individual state examiner supervisors should participate in the planning process as well. The purpose of the multistate planning process is to foster inclusion from all participating states.

Communication of on-site examination activities and objectives is especially important, and it is best accomplished through pre-examination conference calls with the examination team. During these calls, the EIC covers all aspects of the planning documents to ensure full understanding of examination guidelines and scheduled completion dates. The meeting also affords examiners the chance to ask questions about their assignments and the overall examination activity. Relevant issues pertaining to the MMC or MME are also discussed so examiners are in the most knowledgeable position prior to commencing on-site activities. Again, inclusion and participation by each state is preferred whenever possible.

Information Security

To protect unencrypted information from unauthorized access, the MMC does not send, receive, or request transmission of unencrypted electronic non-public sensitive information. The MMC uses *Box* (MMC Exam Platform) as a tool to securely disseminate information. The MMC Exam Platform allows both examiners and MMEs to share information. It should be noted that states may have their own regulations and policies as it pertains to information security protocols. Examiners should adhere to their state protocols whenever handling non-public sensitive information.

MMC Rating System

Introduction

The MMC Exam Rating System is incorporated into the examination work program to provide a seamless and continuous evaluation of the four components the MMC assesses when determining the overall rating of examined MMEs. The four components include:

1. Financial Condition
2. Board Oversight and Management
3. Compliance Program
4. Violations of Law and Consumer Harm

Each component is defined later in this section. When an examination is completed, the lead examination state recommends a rating for the MME to the MMC based on the criteria outlined below. The lead examination state, supplied with the MMC's rating recommendation, will issue a confidential rating to the MME. The rating will be contained in the Report of Examination.

The MMC has adopted the Federal Financial Institutions Examination Council (FFIEC) [Uniform Interagency Consumer Compliance Rating System](#) (CC Rating System). The principles and structure of the CC Rating System are incorporated within this MMC rating system and the CC Rating System should serve as a resource for state regulators. The primary purpose of the CC Rating System is to ensure that regulated financial institutions are evaluated in a comprehensive and consistent manner, and that supervisory resources are appropriately focused on areas exhibiting risk of consumer harm and on financial institutions that warrant elevated supervisory attention.

The CC Rating System is composed of guidance and definitions, which have been incorporated throughout this section of the manual. The principles that serve as the foundation for the CC Rating System are:

- Risk-based
- Transparent
- Actionable
- Incent Compliance

The CC Rating System is based upon a numeric scale of 1 through 5 in increasing order of supervisory concern. Thus, 1 represents the highest rating and consequently the lowest degree of supervisory concern, while 5 represents the lowest rating and the most critically deficient level of performance, and therefore, the highest degree of supervisory concern. Ratings of 1 or 2 represent satisfactory or better performance. Ratings of 3, 4, or 5 indicate performance that is less than satisfactory.

1	Strong
2	Satisfactory
3	Deficient
4	Seriously Deficient
5	Critically Deficient

Examiners should consider the individual strength of each component as well as the interconnectedness of the components in determining the overall condition of the MME. Composite and component ratings will be shared with the MME. The composite rating is not an average of the component ratings. Assigning composite ratings is not an exact science and as such the examiner should be mindful of the severity of findings in the various examination components.

Composite Rating

1	The highest rating of “1” is assigned to a financial institution that maintains a strong CMS and takes action to prevent violations of law and consumer harm. Financial condition is strong in all areas.
2	A rating of “2” is assigned to a financial institution that maintains a CMS that is satisfactory at managing consumer compliance risk in the institution’s products and services and at substantially limiting violations of law and consumer harm. This rating indicates that the institution maintains a satisfactory state of financial condition.
3	A rating of “3” reflects a CMS deficient at managing consumer compliance risk in the institution’s products and services and at limiting violations of law and consumer harm. This rating is an indicator that the institution’s financial condition is deficient.
4	A rating of “4” reflects a CMS seriously deficient at managing consumer compliance risk in the institution’s products and services and/or at preventing violations of law and consumer harm. “Seriously deficient” indicates fundamental and persistent weaknesses in crucial CMS elements and severe inadequacies in core compliance areas necessary to operate within the scope of statutory and regulatory consumer protection requirements and to prevent consumer harm. This rating indicates that financial condition is seriously deficient.
5	A rating of “5” reflects a CMS critically deficient at managing consumer compliance risk in the institution’s products and services and/or at preventing violations of law and consumer harm. “Critically deficient” indicates an absence of crucial CMS elements and a demonstrated lack of willingness or capability to take the appropriate steps necessary to operate within the scope of statutory and regulatory consumer protection requirements and to prevent consumer harm. This rating indicates financial condition is critically deficient.

The remainder of this section outlines the various aspects of the components that examiners should investigate as well as the guidelines for assigning a composite rating to a MME. The guidelines and exam procedures for a significant number of the aspects of each component are detailed elsewhere in the manual. In these cases, hyperlinks will direct readers to the applicable section.

Safety and Soundness

In its simplest form, safety and soundness means free from danger or injury. Safety and soundness describe the condition of a MME’s financial health, the reliability and accountability of its operations, and its prospect for future financial stability. Generally considered a depository examination term, an examination for safety and soundness is an examination of the MME’s strength and operating policies and procedures to

determine whether the MME is being run in a safe and sound manner. This manual cover safety and soundness in two primary areas: financial condition and management. Safety and soundness are not incorporated as a single concept in the MMC Exam Manual. This explanation is included to clarify that the concept is not structured in the same manner in the MMC Manual as it is in depository institution examination manuals.

Components

Financial Condition

Liquidity, earnings, asset quality, capital, and sensitivity to market risk are all key indicators of the stability and soundness of a MME and potential for risk of loss to both the MME and consumers. Without funds to operate (“liquidity”) and earn a profit, a MME ultimately will not be able to meet its obligations to consumers or sustain a viable program of legal and regulatory compliance. Either situation jeopardizes the MME’s ability to maintain its license and stay in business. If it has low quality assets, the MME may experience losses that reduce earnings and limit its liquidity. If a MME is not well capitalized, investors and commercial lending institutions will be hesitant to invest in the MME or lend it money. Extreme sensitivity to market risks in a MME’s portfolio can be particularly dangerous and has the capacity to dismantle a MME overnight. Therefore, the assessment of the Financial Condition component will consider the adequacy of liquidity, earnings, asset quality, capital, and sensitivity to market risk. Since MMEs generally have limited regulatory capital requirements, much of the assessment of financial condition will be based on liquidity. The adequacy of earnings, asset quality and capital will be determined based on their potential as sources of liquidity. However, examiners should also thoroughly investigate the overall financial soundness of the MME and the prospects for remaining sound.

The financial strength of a MME is largely determined by its ability to fund loans that are in their origination pipeline or meet obligations in order to service loans within its portfolio. Liquidity is very crucial when analyzing the financial condition of a MME. In the context of analyzing the MME’s liquidity, the examiner should verify the level of capital. A MME with strong capital positions and earnings fundamentals that are trending up is likely to be able to sustain ongoing operations and have less difficulty raising funds for even unforeseen events. Conversely, MMEs with low levels of capital, with weak earnings, with growth stagnating or exhibiting deteriorating asset quality, are likely to find financing to be more expensive or unobtainable.

To review the guidelines and examination procedures for evaluating the various aspects of the Financial Condition component, follow the links below:

1. [Liquidity](#)
2. [Earnings](#)
3. [Capital](#)
4. [Asset Quality](#)
5. [Sensitivity to Market Risk](#)

When determining the financial condition of a MME, the examiner should take into consideration the level of capital, liquidity and funds management practices, the trend and level of earnings, the quality of the MME's assets, and the MME's mechanisms for controlling interest rate risk. While MMC examinations do not assign numerical ratings to the individual subcomponents of the Financial Condition Component, examiners should rate the overall condition of the MME's financial condition taking into consideration the level of capital, liquidity and funds management practices, the trend and level of earnings, the asset quality and interest rate risk management.

Financial Condition Rating

1	A rating of "1" indicates strong liquidity levels, excellent earnings and well-developed and practiced funds management policy. Such institutions demonstrate reliable access to sufficient sources of funds on favorable terms to meet present and anticipated liquidity needs. Capital levels and asset quality are strong. Additionally, such institutions have strong mechanisms for controlling sensitivity to market risk.
2	A rating of "2" indicates satisfactory sources of funds on acceptable terms to meet present and anticipated liquidity needs; satisfactory capital and earnings, modest weaknesses from funds management practices, satisfactory asset quality, and sufficient interest rate risk mechanisms.
3	A rating of "3" indicates less than satisfactory liquidity management, relatively low levels of capital or decreasing earnings. Such an institution may lack ready access to funds on reasonable terms or may evidence significant weaknesses in funds management practices. Asset quality needs improvement. Additionally, interest rate risk mechanisms may be subpar.
4	A rating of "4" indicates the institution is operating at a loss in an accelerated basis and capital and/or liquidity levels are seriously deficient. The institution may not have or be able to obtain a sufficient volume of funds on reasonable terms to meet liquidity needs. Asset quality may be deficient. Sensitivity to market risk may be high and uncontrolled.
5	A rating of "5" indicates the institution has critically deficient liquidity practices. Capital has deteriorated to a critical level or earnings are non-existent. The continued viability of the institution is threatened and requires immediate external financial assistance to meet funding obligations. Asset quality is poor. The potential for a break down in operations due to extreme sensitivity to market risk may also be present.

Board Oversight and Management

The foundation of strong management in any MME is an effective, rational organizational structure, exhibited by sound and clear policies and procedures and effective internal routine and control processes. There must also be a culture of accountability which is demonstrated by clearly delineated operational controls by various officials and

employees over specific spheres of influence. The Board of Directors and senior management must demonstrate their commitments to maintaining an effective compliance management system and to set a positive climate for compliance. The quality of management is reflected in its ability to create and implement reasonable and effective plans for the activities of the organization, monitor and enforce the organization's execution of its plans, and modify its plans in response to operating results and changes in its operating environment. In evaluating management, the examiner should consider the knowledge, skills, and abilities of the executive officers, the MME's history of regulatory compliance, and financial performance of the MME.

The CC Rating System provides that an examiner should assess a MME's board of directors and management, as appropriate for their respective roles and responsibilities, based on the following assessment factors:

- oversight of and commitment to the MME's Compliance Management System (CMS);
- effectiveness of the MME's change management processes, including responding timely and satisfactorily to any variety of change, internal or external, to the MME;
- comprehension, identification, and management of risks arising from the MME's products, services, or activities; and
- self-identification of consumer compliance issues and corrective action undertaken as such issues are identified.

To review the guidelines for evaluating the various aspects of the Board Oversight and Management refer to these [MMC CMS Examination Procedures](#) that address:

- Adequacy of a MME's:
 - [Board and Management Oversight](#)
 - [Company Business Model](#)
 - [Service Provider Oversight](#)
 - [IT and Data Security](#)

Examiners should rate the overall condition of the MME's board oversight, management, and operational stability taking into consideration the following:

1	A rating of "1" indicates strong performance by management and the board of directors and strong risk management practices relative to the MME's size, complexity, and risk profile.
	<ul style="list-style-type: none"> • Board and management demonstrate strong commitment and oversight to the MME's CMS. • Substantial compliance resources are provided, including systems, capital, and human resources commensurate with the MME's size, complexity, and risk profile. • Staff is knowledgeable, empowered and held accountable for compliance with consumer laws and regulations. • Management conducts comprehensive and ongoing due diligence and oversight of third parties consistent with agency expectations to ensure that the MME complies with

	<p>consumer protection laws, and exercises strong oversight of third parties' policies, procedures, internal controls, and training to ensure consistent oversight of compliance responsibilities.</p> <ul style="list-style-type: none"> • Management anticipates and responds promptly to changes in applicable laws and regulations, market conditions and products and services offered by evaluating the change and implementing responses across impacted lines of business. • Management conducts due diligence in advance of product changes, considers the entire life cycle of a product or service in implementing change, and reviews the change after implementation to determine that actions taken have achieved planned results. • Management has a solid comprehension of and effectively identifies compliance risks, including emerging risks, in the MME's products, services, and other activities. • Management actively engages in managing those risks, including through comprehensive self- assessments. • Management proactively identifies issues and promptly responds to compliance risk management deficiencies and any violations of laws or regulations, including remediation.
2	A rating of "2" indicates that the board and management provide satisfactory oversight of the MME's CMS.
	<ul style="list-style-type: none"> • Compliance resources are adequate, and staff is generally able to ensure the MME is in compliance with consumer laws and regulations. • Management conducts adequate and ongoing due diligence and oversight of third parties to ensure that the MME complies with consumer protection laws, and adequately oversees third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities. • Management responds timely and adequately to changes in applicable laws and regulations, market conditions, products and services offered by evaluating the change and implementing responses across impacted lines of business. • Management evaluates product changes before and after implementing the change. • Management comprehends and adequately identifies compliance risks, including emerging risks, in the MME's products, services, and other activities. • Management adequately manages those risks, including through self-assessments. • Management adequately responds to and corrects deficiencies and/or violations, including adequate remediation, in the normal course of business.
3	A rating of "3" indicates that board and management oversight of the MME's CMS is deficient.
	<ul style="list-style-type: none"> • Compliance resources and staff are inadequate to ensure the MME is in compliance with consumer laws and regulations. • Management does not adequately conduct due diligence and oversight of third parties to ensure that the MME complies with consumer protection laws, nor does it adequately oversee third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities. • Management does not respond adequately and/or timely in adjusting to changes in applicable laws and regulations, market conditions, and products and services offered. • Management has an inadequate comprehension of and ability to identify compliance risks, including emerging risks, in the MME's products, services, and other activities. • Management does not adequately respond to compliance deficiencies and violations including those related to remediation.
4	A rating of "4" indicates that board and management oversight, resources, and attention to the CMS are seriously deficient.

	<ul style="list-style-type: none"> • Compliance resources and staff are seriously deficient and are ineffective at ensuring the MME’s compliance with consumer laws and regulations. • Management oversight and due diligence over third-party performance, as well as management’s ability to adequately identify, measure, monitor, or manage compliance risks, is seriously deficient. • Management’s response to changes in applicable laws and regulations, market conditions, or products and services offered is seriously deficient. • Management exhibits a seriously deficient comprehension of and ability to identify compliance risks, including emerging risks, in the MME. • Management response to deficiencies, violations and examination findings is seriously deficient.
5	A rating of “5” indicates board and management oversight, resources, and attention to the CMS are critically deficient.
	<ul style="list-style-type: none"> • Compliance resources are critically deficient in supporting the MME’s compliance with consumer laws and regulations, and management and staff are unwilling or incapable of operating within the scope of consumer protection laws and regulations. • Management oversight and due diligence of third- party performance is critically deficient. • Management fails to monitor and respond to changes in applicable laws and regulations, market conditions, or products and services offered. • Management does not comprehend nor identify compliance risks, including emerging risks, in the MME. • Management is incapable, unwilling and/or fails to respond to deficiencies, violations or examination findings.

Compliance Program

The CC Rating System provides that an assessment of an effective CMS be based on the following factors:

- whether the MME’s policies and procedures are appropriate to the risk in the products, services, and activities of the MME;
- the degree to which compliance training is current and tailored to risk and staff responsibilities;
- the sufficiency of the monitoring and, if applicable, audit to encompass compliance risks throughout the MME; and
- the effectiveness of the consumer complaint response and resolution process.

To review the guidelines for evaluating the various aspects of the Compliance Program component refer to these [MMC CMS Examination Procedures](#) that address:

- Adequacy of a MME’s:
 - [Policy and procedures](#)
 - [Training](#)
 - [Monitoring and/or audit](#)
 - [Consumer complaint response](#)

1	A rating of “1” reflects that compliance policies and procedures and third-party relationship management programs are strong, comprehensive and provide standards to effectively manage compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • The highest compliance training is comprehensive, timely, and specifically tailored to the responsibilities of the staff receiving it, including those responsible for product development, marketing and customer service. • The compliance training program is updated proactively in advance of the introduction of new products or new consumer protection laws and regulations to ensure that all staff are aware of compliance responsibilities before rolled out. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems are comprehensive, timely, and successful at identifying and measuring material compliance risk management throughout the MME. • Programs are monitored proactively to identify procedural or training weaknesses to preclude regulatory violations. • Program modifications are made expeditiously to minimize compliance risk. • Processes and procedures for addressing consumer complaints are strong. • Consumer complaint investigations and responses are prompt and thorough. • Management monitors consumer complaints to identify risks of potential consumer harm, program deficiencies, and customer service issues and takes appropriate action.
2	A rating of “2” reflects that compliance policies and procedures and third-party relationship management programs are adequate to manage the compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training outlining staff responsibilities is adequate and provided timely to appropriate staff. • The compliance training program is updated to encompass new products and to comply with changes to consumer protection laws and regulations. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems adequately address compliance risks throughout the MME. • Processes and procedures for addressing consumer complaints are adequate. • Consumer complaint investigations and responses are generally prompt and thorough. • Management adequately monitors consumer complaints and responds to issues identified.
3	A rating of “3” reflects that compliance policies and procedures and third-party relationship management programs are inadequate at managing the compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training is not adequately comprehensive, timely, updated, or appropriately tailored to the particular responsibilities of the staff. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems do not adequately address risks involving products, services or other activities including, timing and scope. • Processes and procedures for addressing consumer complaints are inadequate. Consumer complaint investigations and responses are not thorough or timely. • Management does not adequately monitor consumer complaints.

4	A rating of “4” reflects that compliance policies and procedures and third-party relationship management programs are seriously deficient at managing compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training is seriously deficient in its comprehensiveness, timeliness, or relevance to staff with compliance responsibilities, or has numerous major inaccuracies. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal controls are seriously deficient in addressing risks involving products, services or other activities. • Processes and procedures for addressing consumer complaints and consumer complaint investigations are seriously deficient. • Management monitoring of consumer complaints is seriously deficient.
5	A rating of “5” reflects that compliance policies and procedures and third-party relationship management programs are critically absent.
	<ul style="list-style-type: none"> • Compliance training is critically absent. • Compliance monitoring practices, management information systems, reporting, compliance audit, or internal controls are critically absent. • Processes and procedures for addressing consumer complaints are critically absent. • Meaningful investigations and responses are absent. • Management exhibits a disregard for complaints or preventing consumer harm.

Violations of Law and Consumer Harm

Sound compliance management is a major consideration when evaluating the quality and effectiveness of a MME. An effective compliance management function should include a process for assessing and monitoring compliance performance, training, and for implementing corrective action based on identified deficiencies.

Examiners should strongly consider the severity and level of violations incurred by MMEs and making evaluations. Additionally, examiners should consider repeat violations and the MME’s success in address outstanding violations.

To review the guidelines for evaluating the various aspects of the Violations of Law and Consumer Harm component refer to the [MMC Mortgage Origination](#) and [MMC Mortgage Servicing Examination Procedures](#) that address compliance with:

- [Applicable State Laws](#)
- Applicable Federal Laws
 - Equal Credit Opportunity Act (ECOA) – Regulation B
 - Home Mortgage Disclosure Act (HMDA) – Regulation C
 - Electronic Fund Transfer Act (EFTA) – Regulation E
 - Fair Debt Collection Practices Act (FDCPA) – Regulation F
 - Homeowners Protection Act (HPA)
 - Truth-in-Lending Act (TILA) – Regulation Z
 - Fair Credit Reporting Act (FCRA) – Regulation V
 - Fair Housing Act

- Real Estate Settlement Procedures Act (RESPA) – Regulation X
- USA Patriot Act of 2001
- Gramm-Leach-Bliley Act (GLBA) – Regulation P
- Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) – Regulation H
- Dodd-Frank Wall Street Reform and Consumer Protection Act
- Mortgage Acts and Practices (MAP Rule) – Regulation N
- Telephone Consumer Protection Act (TCPA)
- Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)

The CC Rating System provides that violations of law and consumer harm should be analyzed for these following assessment factors:

- the root cause, or causes, of any violations of law identified during the examination;
- the severity of any consumer harm resulting from violations;
- the duration of time over which the violations occurred; and
- the pervasiveness of the violations.

Additionally, the CC Rating System defines the following four factors by which examiners can assess Violations of Law and Consumer Harm.

- Root cause
- Severity
- Duration
- Pervasiveness

Self-identification and prompt correction of violations of law reflect strengths in a MME's CMS. A robust CMS appropriate for the size, complexity and risk profile of a MME will often prevent violations or will facilitate early detection of potential violations. This early detection can limit the size and scope of consumer harm. Moreover, self-identification and prompt correction of serious violations represents concrete evidence of a MME's commitment to responsibly address underlying risks. In addition, appropriate corrective action, including both correction of programmatic weaknesses and full redress for injured parties, limits consumer harm and prevents violations from recurring in the future.

Examiners should rate the overall condition of the MME's compliance mechanisms taking into consideration the following characterizations:

1	A rating of “1” indicates that violations are the result of minor weaknesses, if any, in the compliance management system. The type of consumer harm, if any, resulting from the violations would have a minimal impact on consumers. The violations and resulting consumer harm, if any, occurred over a brief period of time. The violations and resulting consumer harm, if any, are isolated in number.
2	A rating of “2” indicates that violations are the result of modest weaknesses in the compliance management system. The type of consumer harm resulting from the violations would have a limited impact on consumers. The violations and resulting consumer harm, if any, occurred over a limited period of time. The violations and resulting consumer harm, if any, are limited in number.
3	A rating of “3” indicates that violations are the result of material weaknesses in the compliance management system. The type of consumer harm resulting from the violations would have a considerable impact on consumers. The violations and resulting consumer harm, if any, occurred over an extended period of time. The violations and resulting consumer harm, if any, are numerous.
4	A rating of “4” indicates violations are the result of serious deficiencies in the compliance management system. The type of consumer harm resulting from the violations would have a serious impact on consumers. The violations and resulting consumer harm, if any, have been long-standing or repeated. The violations and resulting consumer harm, if any, are widespread or in multiple products or services.
5	A rating of “5” indicates that violations are the result of critical deficiencies in the compliance management system. The type of consumer harm resulting from the violations would have a serious impact on consumers. The violations and resulting consumer harm, if any, have been long-standing or repeated. The violations and resulting consumer harm, if any, are widespread or in multiple products or services.

Application of the Manual to Non-MMEs

While this manual represents the MMC’s multi-state examination focus on MME examinations, states are free to utilize this manual as guidance for their own examinations as they deem appropriate.

If states wish to apply the manual to non-MMEs, it is clear the exact same principles and examination methods cannot apply to all MMEs which are not part of the MMC’s core mission. Individual states typically examine smaller MMEs than does the MMC. Smaller lenders and other similar operations, such as a mortgage brokers, while subject to the same principles, require modified examination procedures which reflect the size and complexity of the MME. Examiners should modify the scope of the examination and procedures to be used based upon the MME’s size and complexity. Additionally, when rating the MME, the weight given to each rating component can be varied based on the activities performed by the MME, the volume of activity, and other such characteristics.

While the financial review of much smaller operations, and, individuals or companies that do not originate mortgage loans, should be adjusted, many of the same principles used to evaluate MMEs still apply. Examiners should always look at capital levels to determine a MME's capacity for absorbing losses. Similarly, examiners should evaluate earnings to ensure that the MME is running a viable business. For MMEs that do not originate loans, liquidity should be reviewed for its adequacy in funding day-to-day operations and meeting payroll.

Examiners should still conduct a complete compliance review on loans for non-MMEs. Also, examiners should evaluate and comment on legal requirements, including licensing, LOs, locations, and other such matters. Management policies and procedures, in so far as they apply to the functions of the MME should be thoroughly reviewed, just as they should in MMEs. Additionally, consumer protection practices should be evaluated as well.

Financial Condition

Introduction

The Financial Condition module provides general information, objectives, criteria, guidance, and procedures for examining the specific component areas related to the financial condition of Multistate Mortgage Entities (MMEs). This section provides an overview of the examination considerations for the review of the five financial component areas presented below:

1. [Liquidity](#)
2. [Earnings](#)
3. [Capital](#)
4. [Asset Quality](#)
5. [Sensitivity to Market Risk](#)

These five financial component areas are part of the Financial Condition module, due to their significant interdependence. These interrelationships necessitate the grouping of the component areas for the purpose of examination review. Additionally, examiners should be cognizant of the potential adverse impact instances of fraud may have on a MME's financial condition. Where applicable, the Financial Condition module provides guidance for, and makes distinctions between, lenders and servicers.

Examination Tools

There are a variety of tools examiners can use to assess the five financial areas and evaluate a MME's financial condition. This includes the [MMC Financial Condition Examination Procedures](#) as well as audited financial statements; books and records including interim financial statements, tax filings, SEC filings, and annual regulatory reports (including reports filed with other regulatory agencies); statements prepared for borrowings, lines of credit, or approval of lending relationships; and, for publicly traded or rated MMEs, ratings analyses and reports. The Mortgage Call Report (MCR) in NMLS provides detailed residential mortgage loan activity, including servicing activity, and MME-level financial information. In addition, the NMLS Data Analytics website provides a Mortgage Examiners Report. This report displays a summary of lender and servicer activity as well as a MME's standard financial ratios compared to average peer group ratios. Examiners should review standard financial information included within a MME's completed information request, however, examiners should not limit their review and analysis to only the information provided by the MME.

Examination Objectives

- Determine the adequacy of a MME's liquidity, earnings, capital, asset quality, and level of sensitivity to market risk.

- Complete the Exam Procedures for the five financial component areas and determine the overall Financial Condition Rating.

Interrelationships

As mentioned above, extensive interrelationships exist between the five financial component areas. Examiners should keep in mind the following when examining the interrelationships:

- The evaluation of capital adequacy is, in part, dependent upon portfolio risk exposure; the level, quality, and stability of earnings; and the degree of interest rate risk exposure;
- The assessment of earnings performance is, in part, dependent upon the ability of earnings to provide for adequate capital through retained earnings, portfolio risk exposure, and interest rate risk exposure;
- The assessment of liquidity involves the MME's ability to access funding at a reasonable cost, which is highly dependent on asset quality, capital adequacy, earnings performance, leverage, operational stability and the quality of capital management practices.

Although an accurate assessment of each financial component involves numerous evaluative factors, as discussed in each respective section below, consideration to interrelationships is a critical aspect of the examination process, as discussed in the remaining sections of this module.

Prospective View

When evaluating financial condition, it is not enough to limit the review to current and historical performance – consideration must also be given to anticipated performance and business plans. Examiners should also review qualitative factors to gain insight into the strength and continuity of financial performance. Such qualitative factors typically include:

- Trends--In which direction is performance trending and why?
- Threats--What factors exist that may threaten future performance? For example, does excessive interest rate risk jeopardize future earnings?
- Stability--What is the likelihood that the current level of performance will continue? For example, is current performance due to ongoing operations or extraordinary events? What is the composition or quality of capital and earnings? What internal and external factors will likely affect future performance?
- Adequacy of Projections--Are the MME's projections of future performance reasonable and adequately supported?
- Quality of Risk Management--What is the quality of risk management systems (processes, programs, plans, internal controls, etc.)? For example, how effective is the MME's loan pricing program? Does the MME have an effective capital planning and budgeting process and capital plan?

Collectively, these and other factors provide insight into future performance levels and conditions. This prospective view, in combination with the analysis of current and historical performance, should provide examiners with enough basis upon which to draw conclusions regarding the adequacy of each component area, and, ultimately, the overall financial condition of the MME.

Liquidity

Mortgage companies need liquidity to originate and finance mortgage loans, sell mortgage loans into the secondary market, retain mortgage servicing rights, repay maturing debt, meet contractual obligations, and fund operations. The financial strength of a MME is largely determined by its ability to manage a variety of capital-intensive activities: funding mortgage loans that are in the pipeline, acquiring mortgage servicing rights where applicable, holding financial assets on balance sheet, and selling mortgage inventory or servicing rights.

Liquidity is a MME's access to unrestricted cash and cash equivalents, capacity to obtain funds at a reasonable cost and meet obligations as they become due. Nonbank mortgage companies lack the benefit of access to a lender of last resort unless they are owned by bank holding companies. While some nonbank mortgage companies are eligible to obtain advances from the Federal Home Loan Bank System, nonbanks do not hold deposits and thus are not backed by federal deposit insurance. Thus, their funding can dry up rapidly should counterparties (i.e. credit providers) begin to believe the institution is in financial distress. So, it is critically important to understand a MME's access to funding sources in a crisis.

Liquidity problems can result from a MME failing to underwrite or service loans in accordance with investors' or insurers' requirements. In this situation, a MME may not be able to sell the mortgage inventory or servicing rights, both of which are important ways a MME generates liquidity. Servicers that have higher exposure to a volatile asset class (e.g. distressed borrowers), have increased cash flow volatility. MMEs with low levels of capital, weak earnings, or deteriorating asset quality may find funding sources to be more limited and expensive, with reduced or nonexistent cash and borrowing capacity.

To obtain funds that meet liquidity obligations, one or a combination of the following must occur:

- Disposal of or decrease in assets
- Increase in short-term borrowings
- Increase in long-term liabilities
- Increase in capital through operating profits, retained earnings, capital injection, stock issuance, or issuance of other capital instruments

Mortgage servicers have servicer advance obligations that require significant capital and liquidity to fund until reimbursement from the borrower, loan investor or property

liquidation occurs. Liquidity for these obligations is typically provided by a servicing advance funding facility with haircuts of 5 percent to 20 percent that require servicer cash to fully fund.

Sources of liquidity for MMEs include operating profits, retained earnings, sales of assets, warehouse lines of credit, servicing advance lines of credit, working capital lines of credit, other loans, and paid in capital. For a lending institution, it is important that the entity have sufficient cash reserves to cover loan commitments and to fund loans in the pipeline that are headed to closing. Liquidity is also necessary to fund daily activities. Cash is necessary to pay workers, pay third-party service providers, pay for the acquisition of assets (including leasing or buying equipment or premises), pay for supplies, and pay creditors. Trends in cash reserves appear in the financial statements on the consolidated statements of cash flows, and in the NMLS Mortgage Call Report Schedule CF.

The available amount on lines of credit provide a contingent source of liquidity. Examiners must analyze the viability of credit lines to determine if they are likely to continue to support operations. The viability of any credit line depends on the financial condition of the creditor. Analyze the financial condition of the creditor through publicly available information or from the MME's internal analysis of the creditor. Examiners should make a distinction between credit facilities that support operations (e.g. working capital lines of credit and term loans), and warehouse lines of credit used to fund mortgage loans or servicing advance facilities used to fund servicer advances.

To evaluate a MME's liquidity position, examiners should review funding requirements for unfunded commitments over various time horizons. A MME that is aggressively originating loans requires a reliable source of funding either from earnings, borrowings, or a combination of both. Examiners should also verify a MME's compliance with covenants on its borrowing lines of credit to ensure the MME's continuing ability to fund loans in the pipeline and service loans.

The formality and detail of a MME's funds management program depend on the size and sophistication of the MME, as well as the nature and complexity of its activities. Effective management information systems, strong analysis of funding requirements under alternative scenarios, diversification of funding sources, and contingency planning are crucial elements of strong liquidity risk management.

A contingency funding plan (CFP) is an important component of a MME's funds management program. A CFP identifies contingent liquidity sources that an institution can use under various liquidity crisis scenarios. The plan should describe steps that should be taken to ensure sources of liquidity are sufficient to fund operations with minimal costs and disruption. Periodically, an institution should test components of the CFP to assess their reliability under times of stress.

Examination Focus for Mortgage Lenders

For lenders, examiners should focus on the institution's ability to fund mortgage loans in the pipeline (unclosed loans), typically from a warehouse line of credit. Since a nonbank mortgage lender cannot rely on deposits as a funding source, borrowing capacity is a primary source of funding.

Examination Focus for Mortgage Servicers

Residential mortgage servicing businesses have substantial cash needs, especially if the institution purchases mortgage servicing rights (MSRs). Mortgage servicers have servicer advance obligations that require significant capital and liquidity to fund the advances until reimbursement from the borrower, loan investor or property liquidation occurs. Liquidity for these obligations is typically provided by a servicing advance funding facility.

For servicers, examiners should review the quality of the underlying mortgages in the servicing portfolio. Increased liquidity risk arises from elevated levels of delinquent and defaulted loans. If a servicer fails to manage the liquidation process of properties where the loan has gone into default, the institution may experience delays or even be denied full reimbursement from the insuring agency for payment advances made to investors.

Ratio Analysis

Examiners should calculate the ratios listed below and consider them in the liquidity evaluation. Where possible, ratio analysis should consider trends and unusual sources such as cash from the sale of an illiquid asset like plant and equipment. For institutions that fund loans, consider the volume of loan commitments outstanding versus available funding sources. Many liquidity ratios are point-in-time assessments. Therefore, these ratios may not capture the range of measurements over a review period. For borrowing facilities, it is helpful to review daily usage activity over a several-month period.

Current Ratio:

- Current Assets / Current Liabilities
- The Current Ratio is a gauge of an institution's capacity to meet short-term debt obligations. A higher Current Ratio indicates a more liquid institution.
- Generally, an above average Current Ratio is above 1.8%, while a satisfactory Current Ratio is 1.3% to 1.8%, a below average Current Ratio is 1.0% to 1.2%, and an unsatisfactory Current Ratio is below 1.0%. There are differences based on activity (servicing or origination), requiring peer comparison available through NMLS Analytics.

Quick Ratio (also referred to as Acid-Test Ratio):

- Current Assets – Inventory (i.e. Loans Held for Sale) / Current Liabilities
- The Quick Ratio is an indicator of an institution's short-term liquidity. The ratio gauges an institution's capacity to meet short-term debt obligations with its most liquid assets.

- Generally, an above average Quick Ratio is above 1.3%, while a satisfactory Quick Ratio is 1.0% to 1.3%, a below average Quick Ratio is 0.1% to 0.9%, and an unsatisfactory Quick Ratio is below 0.1%.

Cash to Total Assets Ratio:

- Cash / Total Assets
- This ratio measures the percentage of an institution's assets that are composed of highly liquid assets.
- This ratio is helpful in analyzing trends over multiple periods.
- Cash includes cash equivalents.

Turnover Rate:

- Measures about how many times in a month the warehouse line is drawn upon and paid-off. In looking at the data for this ratio it also becomes quickly evident whether the institution is constantly hitting the ceiling on its borrowing capacity on any particular line.
- This analysis should answer two questions:
 - How often the line is paid out every month - If the institution gets close to drawing the full amount twice a month then it has effectively doubled the volume it can push through. Most operations do not have the resources needed to get a group of loans closed, sold, and transferred much quicker than a two-week window.
 - How close to full usage the line is - Examiners should verify that if a particular line is constantly being fully used or exceeded that there are alternate sources for liquidity. In this situation it becomes important to check the aging of the loans on the line.

Other Ratios:

- Operating Cash Flow Ratio: $\text{Cash Flow from Operations} / \text{Current Liabilities}$
 - Indicates how well current liabilities are covered by operations cash flow.

Exam Objectives:

Evaluate an institution's:

- Ability to fund daily activities
- Ability to fund loans in the pipeline
- Ability to meet debt obligations
- Levels of capital and earnings to support liquidity
- Quality of assets and their possible effect on liquidity

Earnings

Mortgage lenders and servicers generate revenue largely from fee-based activities. Lenders that retain mortgage loans in portfolio also generate interest income. Earnings

can be volatile due to the cyclical nature of the mortgage industry from changes in interest rates and other external factors. The potential for rapid changes in interest rates and mortgage volume demands a flexible operating structure with expenses that move in scale with volume. When volumes decline, an inflexible mortgage operation can shift quickly from profits to losses.

From a regulator's standpoint, the essential purpose of earnings, both current and accumulated, is to absorb losses and augment capital. Additionally, earnings are an immediate source of liquidity generated primarily from the normal operations of the business. Earnings are also a short-term indicator of the adequacy of operations.

Earnings are the initial safeguard against the risks of engaging in the mortgage business and represent the first line of defense against capital depletion from net losses. Favorable earnings also foster the ability of an institution to remain competitive by providing the resources required to implement strategic initiatives.

The quality of earnings may be diminished by undue reliance on extraordinary gains, nonrecurring events, or favorable tax effects. It is quite possible for an institution to register impressive profitability ratios and high dollar income levels by assuming an unacceptable degree of risk. A relatively high return on assets may be an indicator that the institution is engaged in higher risk activities relative to peers.

Examination Focus for Mortgage Lenders

For lenders, examiners should focus on the ability of the operation to generate earnings from mortgage loan production activities. Earnings are typically generated through fees from mortgage loan origination services, fees from the origination and sale of mortgage loans into the secondary market, and interest income on loans held in portfolio. Lenders must consider the limitations established by investors or federal and state regulations as it pertains to these fees.

Examination Focus for Mortgage Servicers

For servicers, examiners should focus on the ability of the operation to generate earnings from owned servicing and/or subservicing activities. Earnings from owned servicing consists of revenues earned from MSR. MSRs are the rights to receive a portion of the interest coupon and fees from the borrowers for performing specified mortgage servicing activities. Owned servicing typically experiences a high degree of volatility, both in expected prepayment rates and related MSR valuation, due to significant exposure to changes in interest rates, conditions in the housing market, general economic factors, and policies of the Federal Reserve.

Increasing levels of delinquent loans typically increase the cost to service loans. Many servicers must make advances of principal and interest to investors, regardless of whether the servicer has received a payment from the borrower and may be responsible for other loan-level obligations like taxes, insurance and property maintenance. Many, but

not all, of these advances are reimbursed by the investor once a property is liquidated, but the servicer still incurs the cost of advancing these funds and the time until reimbursement occurs may be considerable.

Earnings from subservicing consists of revenues earned from performing servicing functions under subservicing agreements, whereby the servicer services loans on behalf of the owner of the MSR. Fees received from subservicing clients are smaller than those received from owned (or capitalized) servicing rights. However, subservicing risks are usually lower as exposure to foreclosure-related costs and losses is generally limited. Subservicers also are not exposed to MSR funding requirements or volatility because the MSR asset is not held on the subservicer's balance sheet.

Ratio Analysis

Several ratios are important for evaluating an institution's earnings performance. The most important ratios for evaluating earnings in mortgage institutions are Return on Assets (ROA), Return on Equity (ROE), and the Debt to Equity Ratio. Examiners should calculate the applicable ratios listed below as part of the earnings evaluation. Where possible, ratio analysis should consider levels and trends and unusual sources (such as a gain or loss from the sale of a non-income producing asset like plant and equipment).

Return on Assets:

- Net Income / Total Assets
- The ROA is a common starting point for analyzing earnings because it gives an indication of the return on the institution's overall activities. Traditionally, ROA is the primary measure of an institution's profitability. Examiners should review the level, trend, and peer comparison of this ratio since it is a critical determinant of an institution's long-term viability.
- Generally, an adequate ROA in mortgage institutions is above 10%, while a moderate ROA is 0% to 10%, and an inadequate ROA is below 0%.

Return on Equity:

- Net Income / Shareholder's Equity
- Shareholder's Equity: Total Assets – Total Liabilities
- ROE indicates a corporation's profitability by depicting how much profit an institution creates with the money shareholders have invested. Investors and capital markets use the ROE ratio to evaluate investment options.
- Generally, an adequate ROE in mortgage institutions is above 32%, while a moderate ROE is 0% to 32%, and an inadequate ROE is below 0%.

Debt to Equity Ratio:

- Total Liabilities / Shareholder's Equity
- The Debt to Equity ratio is included as an indicator of the volatility of ROE because a small change in net income can have a large effect on ROE if there is little equity.

- Generally, an adequate Debt to Equity Ratio in mortgage institutions is below 1.4%, while a moderate Debt to Equity Ratio is 1.5% to 8.8%, and an inadequate Debt to Equity ratio is above 8.8%.

Other Ratios:

- Debt Ratio: Total Debt / Total Assets
- Earnings Retention Rate: (Net Income – Dividends) / Net Income
- Net Interest Margin: (Interest Income – Interest Expense) / Average Earning Assets

Exam Objectives

Evaluate an Institution's:

- Ability to cover losses and provide for adequate capital
- Earnings trends and stability
- Quality and composition of earnings
- Degree of reliance on interest-sensitive funds
- Interrelationships between the dividend payout ratio and level of current and retained earnings
- Growth rate of retained earnings.
- Extent to which extraordinary items, securities transactions and tax effects contribute to net income
- Extent to which income may be impacted by changes to an institution's business plan and products offered.

Capital

Capital is the ownership interest in the business. It represents the ownership's "stake" in the business and, through retained earnings, is a long-term indicator of the adequacy of operations. Capital performs very important functions. It absorbs losses, promotes public confidence, and, in conjunction with minimum capital ratios, restricts excessive asset growth through leverage and helps the institution weather economic downturns.

Mortgage companies need an effective internal process to assess and maintain capital adequacy in relation to their overall risks. Companies with higher risk exposure, plans for acquisition or growth, or less access to credit markets need to hold higher levels of capital.

Nonbank mortgage companies are not subject to the risk-based capital requirements of depository institutions. Government-sponsored enterprises (Fannie Mae, Freddie Mac, and Ginnie Mae) have instituted capital, liquidity, and net worth requirements for the sellers/servicers of their mortgages. Some states have also instituted minimum capital requirements for nonbank mortgage companies. However, these requirements provide

limited loss protection since they are not risk-based and affect only a portion of nonbank mortgage companies.

Nevertheless, these regulatory requirements are important safeguards for applicable mortgage companies. Failure to satisfy any federal or state minimum capital requirement may result in an institution losing the right to originate, securitize, sell, and service mortgages for that regulatory entity.

Business partners may also require that certain capital ratios be maintained. Large-volume providers of services may require that capital ratios be maintained in order to allow an institution to pay for services monthly. An institution that is hired as a sub-contractor to service or process loans may be required to maintain minimum capital ratios as well.

Capital requirements are considered when a lender is contemplating a business loan to a residential mortgage institution. Furthermore, lender capital requirements can affect an institution's liquidity long after a loan is made. A lender may decide, based upon a capital ratio review, to exercise a demand feature in a loan to an institution or prohibit and institution from drawing on a line of credit (such as a warehouse line).

Capital levels should be high enough to offer protection through all economic cycles and maintained well above any minimum regulatory requirements. The appropriate level of capital cannot be determined solely using quantitative criteria. An adequate capital level is derived from effective capital planning processes that appropriately address an institution's overall risk.

When assessing capital, the examiner should also consider contingent liabilities. Contingent liabilities may affect the adequacy of capital given the likelihood they will become on-balance sheet obligations, thus reducing the strength of equity support. Contingent liabilities can arise, for example, from lawsuits or contractual agreements (retention of some liability for loans sold in the secondary market).

For nonbank mortgage companies that hold loans long-term, the adequacy of loan loss reserves is critical. Inadequate loan loss reserves could erode capital in the event of loan portfolio deterioration or losses.

In general, examiners must ask the question, "Considering existing and potential liabilities and risks, does this institution have sufficient capital to sustain operations?" If not, examiners may choose to criticize the board and management and recommend that the institution increase its capital to a sufficient level.

Following are some of the ways in which nonbank mortgage companies may increase capital:

- Earnings retention from higher earnings, lower cash dividends, stricter controls over expenses, and tighter credit standards to reduce loan losses. Note that

retained earnings only improve capital ratios when the increase exceeds asset growth.

- Sale of additional capital stock.

Ratio Analysis

Ratio analysis is useful in understanding an institution's capital strength, but it is just one component in the overall evaluation of capital adequacy. Ratios help the examiner understand trends based on balance sheet information and peer average comparisons. Ratio analysis does not factor in important qualitative assessments of the institution's risk profile or the effectiveness of internal capital planning processes. Listed below are several important ratios for evaluating capital in mortgage institutions.

Total Equity to Total Assets:

- Total Equity / Total Assets
- This ratio is an indicator of an institution's long-term financial health and profitability. The ratio measures the value of money invested by shareholders plus any retained earnings generated by operations. A low ratio means that the institution may be burdened with high debts. A Total Equity to Total Assets ratio below 0.70 generally makes it difficult for an institution to borrow money, due to concerns about its solvency.

Tangible Net Worth to Total Assets:

- Tangible Net Worth / Total Assets
- This ratio measures the liquidation value of an institution if it were to cease operations and be sold. Tangible net worth is calculated by subtracting goodwill and other intangible assets from total equity. FNMA, FHLMC, and GNMA require seller/servicers to maintain this ratio at 6 percent or higher.

Payout Ratio:

- Dividends Paid / Annualized Net Income
- This ratio measures the proportion of earnings paid out as dividends to shareholders. A lower payout ratio is generally preferable to a higher payout ratio, with a ratio greater than 100 percent indicating the institution is paying out more in dividends than it makes in net income. The lower the ratio, the more earnings that are reinvested in the institution as equity.

Prolonged Net Losses:

- Tangible Net Worth / Average Losses
- When an institution is experiencing prolonged net losses, it is important to know how long the institution can survive before capital dissipates. The Tangible Net Worth to Average Losses ratio measures the dissipation rate or "capital burn rate" for the period selected. Examiners may calculate average losses weekly, monthly, or quarterly depending on the severity of the losses. The resulting ratio indicates how many periods remain until tangible net worth is extinguished.

Exam Objectives

Evaluate a MME's:

- Capital levels in relation to the type, concentration, and volatility of assets
- Capital planning processes
- Volume of low-quality assets
- Growth experience, plans and prospects
- Ability to conform to regulatory capital requirements
- Capital ratios relative to peer group if applicable
- Earnings retention and access to capital markets or other appropriate sources of financial assistance.

Asset Quality

Asset quality reflects the quantity of existing and potential credit risk associated with the loan and investment portfolios, real estate owned (REO), and other assets, e.g. MSRs, as well as off-balance sheet transactions. The quality of assets at a mortgage institution has a significant impact on the MME's financial condition and on the ability to market its assets. If the quality of loans originated or serviced deteriorates, a MME may be unable to sell the loans at market prices, which may lead to lower earnings or even losses. Poor asset quality may also result in the loss of favorable terms, or the possible cancellation of contracts, with secondary market agencies or private investors.

Credit risk exists even if the loan and servicing have been sold. If a MME services loans for investors on a contractual recourse basis and retains risk of loss arising from borrower default, the servicer is exposed to credit risk. In this type of recourse arrangement, a MME is normally responsible for all credit loss because it must repurchase the defaulted loan. The exposure is off-balance sheet until the loan has been repurchased.

A MME is exposed to counterparty credit risk if a counterparty fails to meet its obligations. Typical counterparties for MMEs include correspondent lenders, private mortgage insurers, vendors, subservicers, and loan closing agents. When a counterparty is experiencing financial or operational difficulties, the risk is that it may not be able to make its contractual payments to the MME.

The investment portfolio is another source of credit risk. Unlike a loan, an investment security is almost always acquired through a third-party broker or dealer in securities. The quality of an investment security, like other asset types, can deteriorate and affect overall asset quality.

Fraudulent loans can quickly affect a MME's asset quality and overall financial condition. Mortgage fraud can occur throughout operations and is often accompanied by deficient oversight and controls.

Examination Focus for Mortgage Lenders

Most nonbank mortgage lenders originate and quickly sell conforming loans in pools on the secondary market to investors such as Fannie Mae and Freddie Mac, along with private investors. Selling loans limits credit risk to the lender. For these MMEs, loans held for sale is usually the main asset, representing 65 percent or more of total assets.

MMEs enter into commitments to originate and purchase residential mortgage loans at interest rates that are determined prior to funding or purchase of the loan. These commitments are referred to as interest rate lock commitments, or IRLCs. MMEs use derivative financial instruments such as forward sales commitments to manage their exposure to interest rate risk and changes in the fair value of IRLCs and loans held for sale. The fair value of the derivatives is included in other assets or payables and accrued liabilities on the balance sheet, with changes in the fair value included in net gains on sales of loans on the income statement.

If a MME loses money on the sale of loans it has not successfully managed the asset's interest rate, or pipeline, risk. At any given time, the quality of the MME's main asset is dependent on their net derivative positions, which depends on how well they manage the pipeline to minimize fallout and cover their commitments (i.e. the percentage of loans that do not close). Large unexpected moves in interest rates may create a one-time loss (or gain) in a given quarter, but repeated losses on the sale of loans shows poor asset quality, caused by ineffective hedging of the portfolio's interest rate risk.

Another indicator of deficient operations in the origination area is loans remaining on the MME's warehouse line more than 45 days. In general, a loan should be bought by investors and cleared from the warehouse line within two weeks of funding. If investors decline to buy more than an occasional loan, systemic asset quality issues may be present, arising from poor underwriting and/or borrower disclosure practices.

For MMEs with mortgage loans that are not held-for-sale and remain on the books (held for investment), credit risk may be significant. In this situation, the lender will typically establish an allowance for loan losses and indemnification reserve (ALL/IR), a valuation reserve established and maintained by charges against earnings. Loan losses are charged against the ALL/IR when management believes the inability to collect a loan balance is confirmed or when the amount of a repurchase or indemnification is confirmed. Subsequent recoveries, if any, are credited to the ALL/IR. The ALL/IR balance is often included in accounts payable or other liabilities on the balance sheet or shown as an offset to loans receivable or loans held for investment.

The ALL/IR is evaluated on a regular basis by management and is based on management's periodic review of the collectability of the loans or likelihood of obligations in light of historical experience, the nature and volume of the portfolio, adverse situations that may affect the borrower's ability to repay, estimated value of any underlying collateral, and economic conditions.

It is important to watch for red flags that may indicate high or increasing credit risk. Some examples include loan growth rates that exceed economic trends or competition, loan concentrations that exceed internal limits, liberal underwriting and risk selection standards, and a high level of loans with structural weaknesses and/or underwriting exceptions. Lenders can exhibit increasing or high levels of credit risk even though many or all traditional lagging indicators e.g. high past due levels or asset quality indicators are low.

Examination Focus for Mortgage Servicers

The evaluation of master servicers and subservicers is considerably different. Subserving work on a fee-for-service basis according to contracts with the master servicers. Unlike master servicers, they do not hold mortgage servicing rights (MSRs—also known as mortgage servicing assets or MSAs) and are not subject to the associated risks. A subservicer's main assets are usually accounts receivable, cash, and, perhaps, property and equipment.

Accounts receivable are stated on the balance sheet net of an allowance for loss, and are comprised mostly of servicing advances, which are largely recoverable. Most servicing contracts specify that servicing advances are first in line to receive proceeds from liquidation. Unless the subservicer was negligent in its contractual obligations, servicing advances are recoverable.

Poor operational controls may impact the recoverability of servicing advances. HUD and private mortgage insurers require servicers to take specific loss mitigation actions within specified timelines. Failure to perform the actions correctly leads to curtailment or denial of insurance claims. However, with servicing advances first in line to receive liquidation proceeds, poor operational controls impact overall recoveries from REO before the servicing advance asset.

Unlike pure subservicers, master servicers own the MSRs. This asset is subject to high interest rate and delinquency risk. If the MME does not originate or purchase mortgage loans, servicing advances and MSRs are the two major assets on the balance sheet. As previously stated, servicing advances are largely recoverable. Therefore, asset quality analysis of master servicers focuses on the valuation of MSRs.

There are two accounting treatments for the MSR asset. Under the amortization method, MMEs recognize the asset's initial fair value on the balance sheet. The fair value of MSRs is based on the present value of the expected cash flows over the life of the assets. Depending on the type of loan, investors typically pay 25 to 40 basis points annually of a loan's unpaid principal balance for servicing the loan.

After initial recognition, the amortization method depletes the MSR over the expected life of the servicing payments. The depletion is an amortization expense on the income statement. In each accounting period following initial recognition, the carrying value of MSRs is analyzed for impairment. If the carrying value of the asset is impaired it is written

down, with the impairment expensed on the income statement (in addition to standard amortization expense). If the fair value of the MSR assets recover in subsequent periods, the impairment expense is recoverable as revenue on the income statement; but only to the extent of prior impairment. The MSR asset never exceeds its original fair value.

Like the amortization method, the fair value method places MSR assets on the balance sheet based on an initial measurement of fair value. Thereafter, changes in fair value are recognized as revenue or expense in each accounting period. Unlike the amortization method, the fair value method allows the carrying value of MSR assets to exceed the initial measurement.

This factor creates incentives for management to mis-value the MSR assets. The incentive also exists under the amortization method when prior impairments are recoverable. However, the incentive is always in play for companies that don't use the amortization method, since the fair value method allows companies to increase the value of their MSR assets above the initial recognition value.

Since MSR assets generally comprise the majority of a servicer's assets, scrutiny of the valuation methods and model inputs used by companies is necessary to detect potential asset inflation. Major economic downturns have compound negative effects on MSR values for several reasons. First, the Federal Reserve generally lowers interest rates to fight recessions. This increases refinance activity which shortens the duration of existing MSR assets, as they are pre-paid and replaced with lower yielding mortgages. Second, delinquencies increase which creates another avenue for prepayment—foreclosures—and reduces projected cash flows even if the delinquency does not end in foreclosure through higher loan-level advancing. Finally, elevated foreclosure activity can flood the market with distressed homes for sale, driving down sales prices and increasing losses on defaulted loans.

Since the value of MSR assets is based on the present value of future cash flows, anything that reduces the projected cash flows from a portfolio will lower MSR valuations. MSR valuations are highly sensitive to changes in interest rates. Increasing rates lower refinance activity and extend the duration of existing MSR assets, thus increasing the value of the MSR asset and often leading to non-cash valuation adjustments benefiting earnings. Decreasing rates increase refinance activity and lower the duration of existing MSR assets, decreasing the value of the MSR asset and typically requiring non-cash charges to the profit and loss to recognize a write-down.

Compare MME MSR valuations to peer data and analyze if the percentage of fair value increases (or decreases) are roughly similar. It is important to compare the subject MME to companies with portfolios of similar composition, including product-mix, average note rates, and delinquency ratios. If the subject MME's MSR valuations do not track closely with peer valuations, investigate why—especially if the variance creates better financial results for the subject MME.

REO for mortgage servicers generally consists of properties acquired through foreclosure. REO properties are considered problem assets. While the REO is not held on an MSR servicer or subservicer's books, poor administration of these properties may lower a MME's overall asset quality and quickly lead to losses and capital dissipation. Some mortgage servicing agreements require the servicer to take legal title to REO on behalf of the loan owner once a foreclosure action is completed. These agreements may also require the servicer to act as an agent for the investor and perform certain administrative duties. These duties may include securing and protecting the property, conducting inspections, obtaining a current appraisal, and marketing the property.

Ratio Analysis

Ratio analysis is useful in understanding a MME's credit risk and the impact on asset quality. When analyzing asset quality, examiners should consider both quantitative and qualitative risk measurements. Some of these indicators are readily available from internal MME reports and the MCR. Other indicators, such as a MME's risk appetite or underwriting practices, are more subjective. Origination-only companies' main asset is loans held for sale. The loans are sold to investors and replaced with new originations. Ratios are not generally used to analyze loans held for sale. Rather, as previously stated, if loans do not remain on warehouse lines (because investors will not buy them) and the sale of loans creates gains, asset quality is acceptable. Likewise, subservicing companies do not require ratio analysis since their assets are generally straightforward and safe. Three helpful MCR ratios for evaluating asset quality in mortgage servicing MMEs are MSR to Total Equity, Net MSR to Loans Serviced, and REO to Total Assets.

Mortgage Servicing Rights to Total Equity:

- MSR / Total Equity
- This ratio measures a MME's concentration in MSRs as a percentage of the capital base. A component of credit risk, concentration risk is the exposure from a single asset type that has the potential of producing large enough losses to threaten a MME's operations. It is useful to analyze this ratio for multi-year trends and comparisons to peer average data, if available. This ratio will vary by MME. If a MME only services its own MSRs, it will be high since the MSRs usually dwarf equity. If a MME services its own MSRs, and subservices other institutions' MSRs, the ratio will be lower. True peer comparison is crucial.

Net Mortgage Servicing Rights Ratio:

- MSR / (UPB of Loans Serviced Under MSRs + UPB of Subservicing for Others)
- This ratio measures a MME's concentration in MSRs as a percentage of the unpaid principal balance of loans serviced. It is useful to analyze this ratio for multi-year trends and comparisons to peer average data, if available.

Real Estate Owned to Total Assets:

- REO / Total Assets
- This ratio measures the percentage of a MME's assets in the REO (foreclosure properties) category. It is useful to analyze this ratio for multi-year trends and

comparisons to peer average data, if available. An increasing ratio or a ratio significantly above peers indicates asset quality deterioration.

Exam Objectives

Evaluate a MME's:

- Adequacy of underwriting standards, soundness of credit administration practices, and appropriateness of risk identification practices.
- Quality of assets.
- Ability to administer and collect problem assets, including REO properties.
- Credit risk arising from off-balance sheet transactions, such as unfunded loan commitments.
- Adequacy of loan and investment portfolio diversification.
- Adequacy of loan and investment policies, procedures, and practices.
- Adequacy of internal controls and management information systems.
- Volume and nature of credit documentation exceptions.

Examiners should note how the current level or status of each factor relates to previous and expected future performance and the performance of other similar MMEs.

Sensitivity to Market Risk

A MME's sensitivity to market risk is usually measured by its interest rate risk (IRR). Some MMEs are also subject to price risk, another component of market risk. IRR is the sensitivity of a MME's current or projected earnings and net portfolio value (NPV) to changes in interest rates. IRR results from the differences in the way interest rate changes affect the values of assets, liabilities, and off-balance-sheet instruments. Price risk arises from activities whose portfolio values are typically subject to daily price movements and accounted for primarily on a mark-to-market accounting basis. Changes in value are reflected in the income statement. Examples include lending pipelines, REO, and MSR.

IRR has four basic components: repricing risk (differences between the timing of rate changes and the timing of cash flows), yield curve risk (differences from changing rate relationships across the spectrum of maturities), basis risk (differences from changing rate relationships among different yield curves), and options risk (differences from interest-related options embedded in loan products).

The risk of changes in the fair value of MSRs due to changes in interest rates is normally considered IRR. It could be considered price risk, however, if the MME is actively buying and selling MSRs.

In terms of repricing risk, a MME with repricing asset maturities that are longer than their repricing liability maturities is considered "liability sensitive." In this situation, liabilities funding mortgage loans reprice "faster" than the mortgage loans themselves. Rising interest rates will generally have an adverse impact on the MME's earnings. Conversely,

in an “asset sensitive” MME, where repricing asset maturities occur before repricing liability maturities, the MME will generally benefit in a rising rate environment.

Individual financial instruments also create IRR for a MME. The interest rate sensitivity of a financial instrument depends on many factors including the following:

- Maturity. In general, given identical instruments, the one with the longer maturity will be more interest rate sensitive.
- Repricing characteristics. Instruments such as adjustable-rate loans that reprice frequently to market interest rates are typically less interest rate sensitive than fixed-rate instruments.
- Embedded options. Loans with embedded options e.g. loan prepayments and interest rate caps create complexity in the measurement of IRR due to the ability of borrowers to alter the level and timing of cash flows.

When evaluating a MME's market risk, examiners must consider both qualitative and quantitative factors. While taking into consideration the MME's size, nature, and complexity of its activities, the assessment should focus on the risk management process, especially management's ability to identify, measure, monitor, and control IRR.

MMEs should have systems and processes that identify and measure IRR. These systems should provide timely and accurate information about IRR exposures and be tailored to the MME's operations. The measurement system should capture all material sources of IRR and generate meaningful reports for senior management and the board of directors. Management should ensure that risk is measured over a probable range of potential interest rate changes, including meaningful stress situations.

MMEs monitor IRR through a periodic process that evaluates whether current strategies are appropriate for the MME's risk profile and objectives. Further, the measurement system must be subject to appropriate internal controls and periodic independent review. The MME's IRR measurement process should be well documented and administered by individuals with sufficient technical knowledge. Validation of the IRR measurement process is critical to ensure the integrity of the process and the reasonableness of model assumptions. Hedging activities, discussed below, are techniques used to control a MME's market risk exposures.

Examination Focus for Mortgage Lenders

Nonbank mortgage lenders are exposed to IRR and price risk associated with the mortgage origination pipeline and related assets, including interest rate lock commitments and mortgage loans held for sale. IRR exists between a rate lock commitment with a borrower and the sale of that loan to an investor. In addition, lenders are exposed to changes in short-term interest rates on certain variable rate borrowings related to mortgage warehouse debt.

Successful hedging systems mitigate the effects of IRR in the mortgage pipeline and warehouse. In a declining rate environment, mortgage loan originations are positively impacted by higher loan origination volumes and improved loan margins. However, in a rising rate environment, the origination business is negatively impacted.

Many nonbank mortgage lenders are not directly exposed to IRR. They work with correspondents that buy their mortgages and offer “best efforts” lock commitments. The correspondent is the entity that securitizes the loans, sells them into the market, and is thus exposed to IRR.

Nonbank mortgage lenders working through correspondents may also choose “mandatory delivery” lock commitments. In this case there is risk. If the mortgage is not funded and delivered on time, the originating MME pays its correspondent’s pair-off fee, which equals the price impact the adverse market movement had on the correspondent’s lock or hedge. To avoid this risk, many nonbank mortgage lenders use best efforts locks.

Correspondent lenders have several strategies to hedge the pipeline. The most common technique is to sell forward the amount of mortgage loans the lender expects to close. If a lender expects 70 percent of its pipeline to close (also known as the “pull-through” ratio, which corresponds to a fallout ratio of 30 percent), it sells forward an amount equal to 70 percent of the applications in the pipeline. Forward sale commitments are usually to-be-announced MBS consisting of loans meeting similar characteristics of those being sold. These are called TBA MBS.

To hedge the risk that more or less than 70 percent of the pipeline closes the MME uses options. Suppose in a falling rate environment the lender projects its pull-through ratio will only be 65 percent (as applicants break their locks to re-apply later), and in a rising rate environment it projects an 80 percent pull-through ratio. To hedge the pipeline the lender would purchase call options to provide coverage on 5 percent of the pipeline if rates fall, and sell futures or purchase put options to cover the other 10 percent of the pipeline if rates rise. This method hedges the pipeline so long as 65 percent to 80 percent of the loans close. Options mitigate risk but are more expensive than using forward sale contracts alone.¹

Examination Focus for Mortgage Servicers

Nonbank mortgage servicers and other licensees that own or invest in MSRMs have substantial exposure to interest rate and default risk, key drivers in the valuation of MSRMs. IRR is significant for nonbank servicers given their significant balance sheet exposure to MSRMs, the high volatility of MSRMs, and the complexity and imperfect nature of hedging. MSR hedging requires complex trading strategies that rely on complicated derivative financial instruments. Default risk is also significant. When a mortgage defaults, the servicer not only loses servicing income but must advance monthly payments to the investor.

¹. *OCC Handbook, Safety and Soundness, Mortgage Banking, Feb. 2014, p. 46.*

Successful hedging systems mitigate the impact of prepayments on MSR values. MSRs are subject to significant changes in fair value as interest rates and prepayment assumptions change. As interest rates decline, borrowers tend to refinance and prepay their mortgage loans. As interest rates rise, MSR values tend to increase, but generally not as much as they decline when rates fall. This effect, known as negative convexity, makes MSRs more complex to hedge. Many MMEs do not hedge their MSRs due to the cost and complexity. These MMEs should have models to anticipate the “shock” effect of changes in interest rates. Scenarios should include if rates rise or fall 25 basis points and/or 50 basis points over a specified period of time. Examiners need to keep current market conditions and expectations in mind when evaluating the effect of IRR shocks on the MME’s assets and income.

Exam Objectives

Evaluate a MME’s:

- Adequacy of IRR management policies, procedures, and practices relative to the size and complexity of the MME.
- Nature and complexity of IRR exposures (repricing risk, yield curve risk, basis risk, and options risk) in the context of the MME’s operations.
- Derivatives and hedging activities.

Financial Condition Component Rating

Examiners should review the Financial Condition modules and follow the respective exam procedures to determine the overall financial condition of the MME. After reviewing each aspect of the Financial Condition component, examiners should rate the component based on the following characteristics:

1

A rating of “1” indicates strong liquidity levels, excellent earnings and well-developed and practiced funds management policy. Such institutions demonstrate reliable access to sufficient sources of funds on favorable terms to meet present and anticipated liquidity needs. Capital levels and asset quality are strong. Additionally, such institutions have strong mechanisms for controlling sensitivity to market risk.

2

A rating of “2” indicates a satisfactory financial condition. This should be supported by having sources of funds on acceptable terms to meet present and anticipated liquidity needs; satisfactory capital and earnings, modest weaknesses from funds management practices, satisfactory asset quality, and sufficient interest rate risk mechanisms.

3

A rating of “3” indicates deficiencies in respect to the institution’s financial condition. These deficiencies may include liquidity management and relatively low levels of capital or decreasing earnings. Such an institution may lack ready access to funds on reasonable terms or may evidence significant weaknesses in funds management practices. Asset quality needs improvement. Additionally, interest rate risk mechanisms may be subpar.

4

A rating of “4” indicates a seriously deficient financial condition. The institution is operating at a loss in an accelerated basis, liquidity levels are deficient, or capital is inadequate. The institution may not have or be able to obtain a sufficient volume of funds on reasonable terms to meet liquidity needs. Asset quality is seriously deficient. Sensitivity to market risk may be high and uncontrolled.

5

A rating of “5” indicates the institution has a critically deficient financial condition. There are serious liquidity practices, capital has deteriorated to a critical level or earnings are non-existent. The continued viability of the institution is threatened, and require immediate external financial assistance to meet funding obligations. Asset quality is poor. The potential for a break down in operations due to extreme sensitivity to market risk may also be present.

Compliance Management System (CMS)

Introduction²

To maintain legal compliance, a MME must develop and maintain a sound compliance management system (CMS) that is integrated into the overall framework for product design, delivery, and administration across their entire product and service lifecycle. Ultimately, compliance should be part of the day-to-day responsibilities of management and the employees of a supervised entity; issues should be self-identified; and corrective action should be initiated by the entity. MMEs are also expected to manage relationships with service providers to ensure that service providers effectively manage compliance with Federal consumer financial laws applicable to the product or service being provided.

The scope of the CMS is separated by the MMC into two primary areas:

- Board and Management Oversight
- Compliance Program

This chapter provides information, objectives, and procedures for assessing a MME's board and management oversight and compliance program.

Board Oversight and Management Introduction

A MME's board of directors is ultimately responsible for developing and administering a CMS that ensures compliance with Federal consumer financial laws and addresses and minimizes associated risks of harm to consumers. In a MME, that ultimate responsibility may rest with a board of directors in the case of a corporation or with a controlling person or some other arrangement. For the balance of this section of the Manual, references to the "board of directors" or "board" generally refer to the board of directors or other individual or group exercising similar oversight functions. In addition, some MMEs may be governed by firm-wide standards, policies, and procedures developed by a holding company or other top-tier corporation for adoption, use, and modification, as necessary, by subsidiary entities.

In the absence of a board of directors and board committee structure, the examiner should determine that the person or group exercising similar oversight functions receives relevant information about compliance and consumer protection matters and takes steps to ensure that the key elements, resources, and individuals necessary for a CMS commensurate with the supervised entity's risk profile are in place and functioning.

Generally, a MME's board of directors need not be actively involved in day-to-day operations; however, they must provide clear guidance regarding acceptable risk exposure levels and ensure that appropriate policies, procedures, and practices have

² Please note that some of the content contained within this section is taken from the CFPB's compliance management exam procedures, which is also linked further down in this section.

been established. Senior management is responsible for developing and implementing policies, procedures, and practices that translate the board's goals, objectives, and risk limits into prudent operating standards.

The Examination Team should use the [MMC CMS Exam Procedures](#) to review:

- Board and Management Oversight
- Company Business Model (Origination and/or Servicing Exam Procedures)
- IT and Data Security
- Service Provider Oversight

Board and Management Oversight

Under Board and Management Oversight, examiners should assess the MME's board of directors and management, as appropriate, for their respective roles and responsibilities, based on the following factors:

- Oversight of and commitment to the MME's CMS;
- Effectiveness of the MME's change management processes, including responding timely and satisfactorily to any variety of change, internal or external, to the MME;
- Comprehension, identification, and management of risks arising from the MME's products, services, or activities; and
- Self-identification of consumer compliance issues and corrective action undertaken as such issues are identified.

Because the effectiveness of a CMS is grounded in the actions taken by its board and senior management, Examiners should seek to determine whether the board and management meet the following objectives:

Oversight of and Commitment to the MME's CMS

1. Demonstrate a strong commitment and oversight to the MME's CMS.
2. Provide compliance resources including systems, capital, and human resources commensurate with the MME's size, complexity, and risk profile.
3. Ensure that staff is knowledgeable, empowered and held accountable for compliance with Federal consumer financial laws.
4. Conduct comprehensive and ongoing due diligence and oversight of service providers consistent with the CFPB's expectations to ensure that the MME complies with Federal consumer financial laws.
5. Exercise oversight of service providers' policies, procedures, internal controls, and training to ensure consistent oversight of compliance responsibilities.

Change Management

1. Respond promptly to changes in applicable Federal consumer financial laws, market conditions, and products and services offered by evaluating the change and implementing responses across impacted lines of business.

2. Conduct due diligence in advance of product changes, consider the entire life cycle of a product or service in implementing change, and review the change after implementation to determine that the actions taken achieved the planned results.

Comprehension, Identification and Management of Risk

1. Comprehend and identify compliance risks, including emerging risks, in the MME's products, services, and other activities.
2. Engage themselves in managing identified risks, which include using comprehensive self-assessments and independent audits, as applicable.
3. Address consumer compliance issues and associated risks of harm to consumers throughout product development, marketing, and account administration, and through the entity's handling of consumer complaints and inquiries.

Self-Identification and Corrective Action

1. Proactively identify issues.
2. Promptly respond to CMS deficiencies and any violations of laws or regulations, including remediation.

A MME's cooperation with examinations and investigations is factored into the board oversight and management component rating. However, if a MME refuses to provide applicable documents and information in a timely manner for exam purposes, participating states may take certain actions against the MME. It is important that examiners not allow a MME to extend the time required to produce needed information unless there is a valid reason for a delay. If the MME engages in a pattern of withholding records and information or fails to provide the requested information, the EIC should report the situation to the SPOC and MMC.

State laws will generally require that MMEs afford examiners full access to its premises, books, records, and information that the participating states deem necessary. The EIC is responsible for assisting the MME in understanding the requirements and obligations associated with a multistate examination.

Company Business Model

Much of the information gathered by the Examination Team to review a company business model can be obtained from reviewing information maintained by the MME in its NMLS record and mortgage call report data. Additionally, examiners may conduct meetings with management during the on-site examination to better understand the nature of the MME's operations.

The questions listed below provide examples of information examiners will review as part of their analysis of the company business model. Additional information will be covered within the [MMC's CMS Examination Procedures](#).

Mortgage Origination

1. Are there any recent or anticipated changes in business practices?
2. Are there any recent or anticipated changes to the company business model?

3. What type of origination channels are used?
4. What is the MME's funding source?
5. What types of loan products does the MME offer?
6. What is the reporting structure for mortgage loan originators and managers?
7. How are areas such loan processing and underwriting managed?

Mortgage Servicing

1. Are there any recent or anticipated changes in business practices?
2. Are there any recent or anticipated changes to the company business model?
3. What type of servicing activity is in the MME engaged in?
4. What is the size and composition of the MME's servicing portfolio?
5. Are there any trends in the growth of the MME's servicing portfolio?
6. Are there any core areas of the MME's operations that are contracted to third-party vendors?
7. Is the MME's staffing commensurate with the size and complexity of its servicing portfolio?

Service Provider Oversight

The MMC recognizes that the use of service providers is often an appropriate business decision for MMEs. MMEs may outsource certain functions to service providers due to resource constraints, use service providers to develop and market additional products or services, or rely on expertise from service providers that would not otherwise be available without significant investment.

However, the mere fact that a MME enters into a business relationship with a service provider does not absolve the MME of responsibility for complying with Federal consumer financial law to avoid consumer harm. A service provider that is unfamiliar with the legal requirements applicable to the products or services being offered, or that does not make efforts to implement those requirements carefully and effectively, or that exhibits weak internal controls, can harm consumers and create potential liabilities for both the service provider and the entity with which it has a business relationship. Depending on the circumstances, legal responsibility may lie with the MME as well as with the supervised service provider.

Examiners should determine whether MMEs have met the following expectations regarding service provider oversight:

1. The MME has developed and implemented an appropriate risk management program for service providers based on the size, scope, complexity, importance, and potential for consumer harm of the service(s) being performed.
2. The MME's service provider risk management program includes initial and ongoing due diligence reviews to verify that the service provider understands and is capable of complying with Federal consumer financial law.

3. The MME ensures that the service provider conducts appropriate training and oversight of employees or agents that have consumer contact or compliance responsibilities.
4. The MME has included in its contract with the service provider clear expectations about compliance, as well as appropriate and enforceable consequences for violating any compliance-related responsibilities, including engaging in discrimination and unfair, deceptive, or abusive acts or practices.
5. The MME has established internal controls and ongoing monitoring to determine whether the service provider is complying with Federal consumer financial law.
6. The MME takes prompt action to fully address any problems identified through the monitoring process, including terminating the relationship where appropriate.

An additional resource for service provider oversight includes the:

- [FDIC Guidance for Managing Third-Party Risk](#)

IT and Data Security

State regulators have become increasingly concerned with information security threats to U.S. financial systems. The financial services industry is a significant target of cybersecurity threats and cybercriminals can cause significant financial losses for MMEs and consumers whose private information may be revealed and/or stolen for illicit purposes. Given the seriousness of the issue and the risk to all regulated entities, certain minimum standards are warranted, while not being overly prescriptive so that cybersecurity programs can match the relevant risks and keep pace with technological advances.

Each MME should maintain a cybersecurity program designed to protect the confidentiality, integrity and availability of the entity's information systems. The cybersecurity program should be based on the entity's own risk assessment and designed to perform the following core cybersecurity functions:

1. identify and assess internal and external cybersecurity risks that may threaten the security or integrity of nonpublic information stored on the entity's information systems;
2. use defensive infrastructure and the implementation of policies and procedures to protect the entity's information systems, and the nonpublic information stored on those information systems, from unauthorized access, use or other malicious acts;
3. detect cybersecurity events and respond and recover from those events;
4. maintain adequate documentation and information available upon request.

Each MME should implement and maintain written policies, approved by a senior officer or owner, or the entity's board of directors, for the protection of its information systems and stored nonpublic information. The policy should address the following areas to the extent applicable to the entity's operations:

1. information security;
2. data governance and classification;
3. asset inventory and device management;

4. access controls and identity management;
5. business continuity and disaster recovery planning and resources;
6. systems operations and availability concerns;
7. systems and network security;
8. systems and network monitoring;
9. systems and application development and quality assurance;
10. physical security and environmental controls;
11. customer data privacy;
12. vendor and third-party service provider management;
13. risk assessment; and
14. incident response.

A MME's cybersecurity program should be based on the size, complexity, and risk profile of its operations. These are additional considerations that should factor into a cyber security program:

1. Limitations on data retention.
2. Risk assessments.
3. Information security training and oversight.
4. Access privileges.
5. Multi-factor authentication.
6. Encryption of nonpublic information.
7. Incident response plan.
8. Notice of cybersecurity events.
9. Penetration testing.
10. Audit trails.
11. Application security.
12. Third-party service provider security policy.

Additional cybersecurity resources for examiners include:

- [Interagency Guidelines Establishing Information Security Standards](#)
- [FFIEC IT Handbook](#)
- [FFIEC Cybersecurity Assessment Tool](#)

Examination Procedures

Examination procedures related to board and management oversight, company business model, service provider oversight, and IT and data security are contained in the [MMC CMS Exam Procedures](#).

The CFPB also covers board and management oversight and services provider oversight as separate modules within its [CFPB CMS Exam Procedures](#) which is another tool for examiners.

Board Oversight and Management Component Rating

Board and management oversight factors should be evaluated commensurate with the MME's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships.

The MMC has adopted the FFIEC CC Rating System which includes the following characterizations as it pertains to Board Management and Oversight:

1	A rating of “1” indicates strong performance by management and the board of directors and strong risk management practices relative to the MME’s size, complexity, and risk profile.
	<ul style="list-style-type: none">• Board and management demonstrate strong commitment and oversight to the MME’s CMS.• Substantial compliance resources are provided, including systems, capital, and human resources commensurate with the MME’s size, complexity, and risk profile.• Staff is knowledgeable, empowered and held accountable for compliance with consumer laws and regulations.• Management conducts comprehensive and ongoing due diligence and oversight of third parties consistent with agency expectations to ensure that the MME complies with consumer protection laws, and exercises strong oversight of third parties’ policies, procedures, internal controls, and training to ensure consistent oversight of compliance responsibilities.• Management anticipates and responds promptly to changes in applicable laws and regulations, market conditions and products and services offered by evaluating the change and implementing responses across impacted lines of business.• Management conducts due diligence in advance of product changes, considers the entire life cycle of a product or service in implementing change, and reviews the change after implementation to determine that actions taken have achieved planned results.• Management has a solid comprehension of and effectively identifies compliance risks, including emerging risks, in the MME’s products, services, and other activities.• Management actively engages in managing those risks, including through comprehensive self- assessments.• Management proactively identifies issues and promptly responds to compliance risk management deficiencies and any violations of laws or regulations, including remediation.
2	A rating of “2” indicates that the board and management provide satisfactory oversight of the MME’s CMS.

	<ul style="list-style-type: none"> • Compliance resources are adequate, and staff is generally able to ensure the MME is in compliance with consumer laws and regulations. • Management conducts adequate and ongoing due diligence and oversight of third parties to ensure that the MME complies with consumer protection laws, and adequately oversees third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities. • Management responds timely and adequately to changes in applicable laws and regulations, market conditions, products and services offered by evaluating the change and implementing responses across impacted lines of business. • Management evaluates product changes before and after implementing the change. • Management comprehends and adequately identifies compliance risks, including emerging risks, in the MME's products, services, and other activities. • Management adequately manages those risks, including through self-assessments. • Management adequately responds to and corrects deficiencies and/or violations, including adequate remediation, in the normal course of business.
3	A rating of "3" indicates that board and management oversight of the MME's CMS is deficient.
	<ul style="list-style-type: none"> • Compliance resources and staff are inadequate to ensure the MME is in compliance with consumer laws and regulations. • Management does not adequately conduct due diligence and oversight of third parties to ensure that the MME complies with consumer protection laws, nor does it adequately oversee third parties' policies, procedures, internal controls, and training to ensure appropriate oversight of compliance responsibilities. • Management does not respond adequately and/or timely in adjusting to changes in applicable laws and regulations, market conditions, and products and services offered. • Management has an inadequate comprehension of and ability to identify compliance risks, including emerging risks, in the MME's products, services, and other activities. • Management does not adequately respond to compliance deficiencies and violations including those related to remediation.
4	A rating of "4" indicates that board and management oversight, resources, and attention to the CMS are seriously deficient.
	<ul style="list-style-type: none"> • Compliance resources and staff are seriously deficient and are ineffective at ensuring the MME's compliance with consumer laws and regulations. • Management oversight and due diligence over third-party performance, as well as management's ability to adequately identify, measure, monitor, or manage compliance risks, is seriously deficient. • Management's response to changes in applicable laws and regulations, market conditions, or products and services offered is seriously deficient. • Management exhibits a seriously deficient comprehension of and ability to identify compliance risks, including emerging risks, in the MME. • Management response to deficiencies, violations and examination findings is seriously deficient.
5	A rating of "5" indicates board and management oversight, resources, and attention to the CMS are critically deficient.
	<ul style="list-style-type: none"> • Compliance resources are critically deficient in supporting the MME's compliance with consumer laws and regulations, and management and staff are unwilling or incapable of operating within the scope of consumer protection laws and regulations.

- Management oversight and due diligence of third- party performance is critically deficient.
- Management fails to monitor and respond to changes in applicable laws and regulations, market conditions, or products and services offered.
- Management does not comprehend nor identify compliance risks, including emerging risks, in the MME.
- Management is incapable, unwilling and/or fails to respond to deficiencies, violations or examination findings.

Compliance Program Introduction

A sound Compliance Program is essential to the efficient and successful operation of the supervised entity. A Compliance Program includes the following components:

- Policies and procedures;
- Training;
- Monitoring and/or audit; and
- Consumer complaint response.

A MME should establish a formal, written Compliance Program, and that program generally should be administered by a chief compliance officer. In addition to being a planned and organized effort to guide the entity's compliance activities, a written program represents an essential source document that may serve as a training and reference tool for employees. A well planned, implemented, and maintained Compliance Program may prevent or reduce regulatory violations, protect consumers from non-compliance and associated harms, and help align business strategies with outcomes. The examination objectives and procedures for the Compliance Program are divided in this module among the four components.

Under Compliance Program, the examiner should assess other elements of an effective CMS, based on the following assessment factors:

- whether the MME's policies and procedures are appropriate to the risk in the products, services, and activities of the MME;
- the degree to which compliance training is current and tailored to risk and staff responsibilities;
- the sufficiency of the monitoring and, if applicable, audit to encompass compliance risks throughout the MME; and
- the responsiveness and effectiveness of the consumer complaint resolution process.

Policies and Procedures

Compliance policies and procedures should document and be sufficiently detailed to implement the board-approved policy documents. Examiners should seek to determine whether compliance policies and procedures:

1. Are designed to effectively manage compliance risk in the products, services and activities of the MME.
2. Are consistent with board-approved compliance policies.
3. Address compliance with applicable Federal consumer financial laws in a manner designed to minimize violations and to detect and minimize associated risks of harm to consumers.
4. Cover the full lifecycle of all products and/or services offered.
5. Are maintained and modified to remain current and complete, and to serve as a reference for employees in their day-to-day activities.

Training

Education of an entity's board of directors, management, and staff is essential to maintaining an effective compliance program. Board members should receive sufficient information to enable them to understand the entity's responsibilities and the commensurate resource requirements.

Management and staff should receive specific, comprehensive training that reinforces and helps implement written policies and procedures. Requirements for compliance with Federal consumer financial laws, including prohibitions against unlawful discrimination and unfair, deceptive, and abusive acts and practices, should be incorporated into training for all relevant officers and employees, including audit personnel. Examiners should seek to determine whether:

1. Compliance training is comprehensive, timely, and specifically tailored to the particular responsibilities of the staff receiving it, including those responsible for product development, marketing and customer service.
2. The compliance training program is updated proactively in advance of the rollout of new or changed products or the effective date of new or changed consumer protection laws and regulations to ensure that all staff is aware of compliance responsibilities.
3. Training is consistent with policies and procedures and designed to reinforce those policies and procedures.
4. Compliance professionals have access to training that is necessary to administer a compliance program that is tailored to the supervised entity's risk profile, business strategy, and operations.

Monitoring and/or Audit

Monitoring is a compliance program element that seeks to identify CMS weaknesses in an effort to provide for a high level of compliance by promptly identifying and correcting weaknesses. Monitoring is generally more frequent and less formal than audit, may be carried out by the business unit, and does not require the same level of independence from the business or compliance function that an audit program requires. Conversely, audit is generally less frequent and more formal than monitoring, may be carried out by a MME's internal audit department or outside contracted party, and is generally independent of the business or compliance function that does the monitoring.

The audit function should review a MME's compliance with Federal consumer financial laws and adherence to internal policies and procedures and should be independent of both the compliance program and business functions that include customer sales or service. A compliance audit program provides the board of directors or its designated committees with a determination of whether policies and procedures adopted by the board to guide risk management are being implemented and followed to provide for the level of compliance and consumer protection established by the board.

Examiners should evaluate monitoring and audit programs to determine whether, considered together, they are commensurate with the MME's size, complexity, and risk profile. In some instances, particularly in MMEs that are small, are non-complex in their organizational or operational structure, and that engage in products and services that present low risk of consumer harm, it is possible that the MME's CMS only has one of these functions. In instances where a MME does not have both functions, examiners should evaluate whether coverage is commensurate with the MME's size, complexity, and risk profile.

Examiners' review of compliance monitoring and/or audit should determine whether:

1. Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems are comprehensive, timely, and successful at identifying and measuring material compliance risk management throughout a specific product line and/or the MME.
2. Programs are monitored proactively to identify procedural or training weaknesses to mitigate regulatory violations. Program modifications are made timely to minimize compliance risk.
3. The MME is determining that transactions and other consumer contacts are handled according to the entity's policies and procedures.
4. Monitoring considers the results of risk assessments or other guides for prioritizing reviews.
5. Findings as a result of monitoring reviews are escalated to management and to the board of directors, as appropriate.
6. The audit program is sufficiently independent and reports to the board or a committee of the board.
7. The audit program addresses compliance with all applicable Federal consumer financial laws.
8. The schedule and coverage of audit activities is appropriate for the MME's size, complexity, risk profile; consumer financial product offerings; and manner of conducting its consumer financial products business.
9. All appropriate compliance and business unit managers receive copies of audit reports in a timely manner.

Consumer Complaint Response

An effective CMS should ensure that a MME is responsive and responsible in handling consumer complaints and inquiries. Intelligence gathered from consumer contacts should be organized, retained, and used as part of a MME's CMS. The MME should be making a deliberate, good faith effort toward resolution of each consumer complaint.

Examiners will consider consumer complaints to determine the responsiveness and effectiveness of the consumer complaint resolution process. Examiners will assess whether:

1. Processes and procedures for addressing consumer complaints are appropriate.
2. Consumer complaint investigations and responses are reasonable.
3. Consumer complaints and inquiries, regardless of the channel through which they are submitted, are appropriately recorded and categorized.
4. Consumer complaints and inquiries, whether regarding the entity or its service providers, are addressed and resolved promptly.
5. Consumer complaints that raise legal issues involving potential consumer harm from unfair treatment or discrimination, unauthorized product enrollment, account openings or upgrades (including the addition of ancillary products), improper sales practices, imminent foreclosures, or other regulatory compliance issues, are appropriately categorized and escalated.
6. Management monitors consumer complaints to identify risks of potential consumer harm and CMS deficiencies, and takes appropriate prospective and retrospective corrective action.
7. Consumer complaints result in retrospective corrective action to correct the effects of the supervised entity's actions when appropriate.
8. The nature or number of substantive complaints from consumers indicates that potential weaknesses in the CMS exist.

Examination Procedures

Examination procedures related to policy and procedures, training, monitoring and/or audit, and consumer complaint response are contained in the [MMC CMS Exam Procedures](#).

The CFPB also covers policies and procedures, training, monitoring and/or audit, and consumer complaint response in the Compliance Program Module within its [CFPB CMS Exam Procedures](#) which is another tool for examiners.

Compliance Program Component Rating

Compliance Program factors should be evaluated commensurate with the MME's size, complexity, and risk profile. Compliance expectations below extend to third-party relationships.

The MMC has adopted the FFIEC CC Rating System which includes the following characterizations as it pertains to the Compliance Program:

1	The highest rating of “1” reflects that compliance policies and procedures and third-party relationship management programs are strong, comprehensive and provide standards to effectively manage compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training is comprehensive, timely, and specifically tailored to the particular responsibilities of the staff receiving it, including those responsible for product development, marketing and customer service. • The compliance training program is updated proactively in advance of the introduction of new products or new consumer protection laws and regulations to ensure that all staff are aware of compliance responsibilities before rolled out. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems are comprehensive, timely, and successful at identifying and measuring material compliance risk management throughout the MME. • Programs are monitored proactively to identify procedural or training weaknesses to preclude regulatory violations. • Program modifications are made expeditiously to minimize compliance risk. • Processes and procedures for addressing consumer complaints are strong. • Consumer complaint investigations and responses are prompt and thorough. • Management monitors consumer complaints to identify risks of potential consumer harm, program deficiencies, and customer service issues and takes appropriate action.
2	A rating of “2” reflects that compliance policies and procedures and third-party relationship management programs are adequate to manage the compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training outlining staff responsibilities is adequate and provided timely to appropriate staff. • The compliance training program is updated to encompass new products and to comply with changes to consumer protection laws and regulations. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems adequately address compliance risks throughout the MME. • Processes and procedures for addressing consumer complaints are adequate. Consumer complaint investigations and responses are generally prompt and thorough. • Management adequately monitors consumer complaints and responds to issues identified.
3	A rating of “3” reflects that compliance policies and procedures and third-party relationship management programs are inadequate at managing the compliance risk in the products, services and activities of the MME.
	<ul style="list-style-type: none"> • Compliance training is not adequately comprehensive, timely, updated, or appropriately tailored to the particular responsibilities of the staff. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal control systems do not adequately address risks involving products, services or other activities including, timing and scope.

	<ul style="list-style-type: none"> • Processes and procedures for addressing consumer complaints are inadequate. • Consumer complaint investigations and responses are not thorough or timely. • Management does not adequately monitor consumer complaints.
4	<p>A rating of “4” reflects that compliance policies and procedures and third-party relationship management programs are seriously deficient at managing compliance risk in the products, services and activities of the MME.</p>
	<ul style="list-style-type: none"> • Compliance training is seriously deficient in its comprehensiveness, timeliness, or relevance to staff with compliance responsibilities, or has numerous major inaccuracies. • Compliance monitoring practices, management information systems, reporting, compliance audit, and internal controls are seriously deficient in addressing risks involving products, services or other activities. • Processes and procedures for addressing consumer complaints and consumer complaint investigations are seriously deficient. • Management monitoring of consumer complaints is seriously deficient.
5	<p>A rating of “5” reflects that compliance policies and procedures and third-party relationship management programs are critically absent.</p>
	<ul style="list-style-type: none"> • Compliance training is critically absent. • Compliance monitoring practices, management information systems, reporting, compliance audit, or internal controls are critically absent. • Processes and procedures for addressing consumer complaints are critically absent. • Meaningful investigations and responses are absent. • Management exhibits a disregard for complaints or preventing consumer harm.

Report of Examination

Introduction

The purpose of the Report of Examination (ROE) is to provide the MMC and the MME's management with a clear, concise, and objective evaluation of the MME's overall condition. The ROE is the principal vehicle used by the MMC to communicate to the MME the examination findings and the need for corrective actions. Furthermore, the ROE and examination work performed establish the basis for actions taken by the MMC to enforce laws and regulations and ensure safe and sound operations. This section provides guidance on ROE content, format, and style. It also includes suggestions for developing a quality ROE and describes the interrelationship of reporting with other examination phases.

ROE Development

Because the ROE's effectiveness as a communication tool is largely determined by ROE quality, ensuring quality is a critical component of ROE development. It is critical that findings and conclusions are adequately developed during the examination. Comments addressing the key elements of an examination finding for each area examined and/or each objective established within the exam scope are essential to a quality ROE. The key elements of an examination finding are described below.

All elements of an examination finding and the need for corrective action must be developed and stated so that management is sufficiently knowledgeable and persuaded to take appropriate corrective action. Care should be taken to influence an effort, but to refrain from a specific method of correction. Recommendations are especially important when management's response is inadequate to correct the weakness or when a failure to act could have a significant adverse impact on the MME.

Communication is essential to the proper development of examination findings and overall conclusions. The EIC should ensure that adequate communication exists among all examination participants so that areas of potential risk are adequately investigated, and possible interrelationships of findings are sufficiently analyzed. The EIC and supervisors should discuss preliminary conclusions prior to the exit meeting to ensure a consistent message and promote more efficient ROE development. Examiners should communicate with the MME throughout the examination process. Such communication ensures MME management is not surprised by the tone or message of the final ROE.

The EIC must also assimilate findings from all areas of the examination to arrive at overall conclusions regarding the present and expected future condition of the MME. Formulating overall conclusions is essential in conducting the exit meeting and developing comments for the ROE.

The resulting ROE should include an assessment of a MME's board and management oversight, financial condition, compliance program, and state and federal regulatory

compliance. Examiners analyze each of these areas to ensure risk is adequately identified and addressed. Any risk that weakens or has the potential to weaken a MME is of interest to the MMC and should be included in the ROE.

ROE Format

The MMC provides a template for both servicing and origination ROEs. The templates are linked below.

- [MMC Origination ROE](#)
- [MMC Servicing ROE](#)

The content within the ROE for a routine full-scope examination usually follows this format:

- Executive Summary
 - Examination Scope: This contains a brief narrative which covers the timeframe of the examination scope, the list of the participating exam states, identification of the EIC and SPOC, and summary of the number of loans originated/serviced during the scope period.
 - Institution Profile: This contains a high-level overview of the MME's ownership, management, and business plan.
 - Summary of Examination Findings: This section of the ROE is used to provide a concise summary of the most significant findings noted by the participating states.
 - Composite Exam Rating: This contains the overall composite rating assigned to the MME for the ROE.
 - Meetings with Management: This section provides a summary of key meetings with management such as meetings scheduled during the on-site examination as well as the exit meeting.
- Financial Condition
 - Scope of Review: This contains a brief summary of the areas covered within the review of the MME's financial condition which includes earnings, capital, liquidity, asset quality, and sensitivity to market risk.
 - Component Rating: This contains the composite rating assigned to the MME for its financial condition.
 - Financial Ratios: This section contains a table with critical financial ratios and data that apply to the MME's earnings, capital, liquidity, and asset quality.
 - Comments and Conclusion: This contains the examination team's key comments and supporting analysis in respect to a MME's financial condition.
- Board Oversight and Management
 - Scope of Review: This contains a brief summary of the areas covered within the review of the MME's board and management oversight which includes

- the MME's board and management, business model, IT and data security, and service provider oversight.
- Component Rating: This contains the composite rating assigned to the MME for its board management and oversight.
- Comments and Conclusion: This contains the examination team's key comments and supporting analysis in respect to a MME's board oversight and management.
- Compliance Program
 - Scope of Review: This contains a brief summary of the areas covered within the review of the MME's compliance program which includes training, policy and procedures, monitoring and/or audit, and consumer complaint response.
 - Component Rating: This contains the composite rating assigned to the MME for its compliance program.
 - Comments and Conclusion: This contains the examination team's key comments and supporting analysis in respect to a MME's compliance program.
- Violations of Law and Consumer Harm
 - Scope of Review: This section identifies the exam modules and areas of law considered as part of a MME's compliance with applicable state and federal law.
 - Component Rating: This contains the composite rating assigned to the MME for its violations of law and consumer harm. This rating considers the state and federal findings identified by the participating states.
 - Federal Findings: The list of all federal findings (i.e. violations of federal law) identified by the participating states.
 - State Findings: The list of all state findings (i.e. violations of state law) identified by the participating states.

Principles of Report Writing

The ROE should clearly present conclusions that are well supported by facts obtained during the examination. The ROE is directed toward the MME's management and the MMC, who are mainly interested in an overall evaluation of the areas examined rather than in a detailed technical analysis. The nature and depth of the ROE will vary depending on the identified risk. However, all ROEs should emphasize clarity and conciseness and should not overwhelm the reader with historical data, statistics, technical terminology, or jargon.

ROEs should be written using logical reasoning to form an effective conclusion for each area of review or finding. This approach facilitates reader comprehension by stating the main idea of a section first, followed by supporting details. Within each ROE section, a lead paragraph should provide an overview to unify the report section. This lead paragraph should summarize key points and provide an analysis of the MME. All paragraphs that follow the lead paragraph should support, explain, and substantiate this analysis. The EIC and participating examiners should avoid writing in a style that

summarizes information provided by a MME without including an analysis of the areas evaluated. A lead paragraph should summarize the section to follow, including:

- Summarize the findings. In most circumstances, the lead paragraph should be a summary of key points including an analysis by the examination team. The paragraphs which follow should support, explain, and substantiate this analysis;
- Set the tone for the section;
- Establish the sequence of supporting evidence to follow;
- Be clear, concise, convincing, and accurate. The report should not include irrelevant background material but should include information that supports the findings.
- Use simple, nontechnical language. Avoid jargon unless you know the MME will understand it or there are no simpler terms to describe something.

Resources

- [FDIC's ROE Grammar and Punctuation Guide](#)
- [FFIEC Policy Statement on the Report of Examination](#)
- MMC ROE Templates
 - [Origination](#)
 - [Servicing](#)

ROE Review Checklist

The following questions may be used as a guideline by the EIC and SPOC when reviewing the ROE prior to submitting it to the MMC.

<input type="checkbox"/>	Is the language within the ROE simple, nontechnical, and clear?
<input type="checkbox"/>	Has the ROE been written so that all management can understand the terms, concepts, and relationships?
<input type="checkbox"/>	Do all paragraphs contain topic sentences (umbrella statements) that summarize the main idea of the paragraph?
<input type="checkbox"/>	Does each section have a lead paragraph which provides a summary and analysis? Do the paragraphs that follow provide support to substantiate and explain the analysis?
<input type="checkbox"/>	Do all sentences within each paragraph have both unity and coherence?
<input type="checkbox"/>	Are sentences sufficiently short and clear to allow readers to understand them on a first reading?
<input type="checkbox"/>	Is the tone of the ROE appropriate in respect to the composite and component ratings assigned to the MME?
<input type="checkbox"/>	Does the report focus on the important issues identified by the examination team?
<input type="checkbox"/>	Is the level of detail in the sections sufficient to convince readers of the problem, but not so minute as to hinder the message?
<input type="checkbox"/>	Has each section of the ROE been filled out?

<input type="checkbox"/>	Is each area identified in the scope addressed in the body of the ROE?
<input type="checkbox"/>	Has all information contained within the ROE been reviewed for its accuracy?
<input type="checkbox"/>	Does the ROE establish the significance of the conditions? That is, does the report convey not only that the conditions exist, but also it conveys the degree of seriousness?
<input type="checkbox"/>	Does the report provide a proper perspective of the strengths and weaknesses in the MME?
<input type="checkbox"/>	Does the summary section provide the results of the examination findings and their significance without specific detail?
<input type="checkbox"/>	Do findings clearly identify the applicable state or federal law, rule, or regulation?
<input type="checkbox"/>	Do the findings clearly explain why a violation exists and include specific examples where these violations occurred?
<input type="checkbox"/>	Will recommendations, if followed, resolve the identified findings?

MMC Examination Timeline

Below is an outline for conducting the multistate examination process, with expectations around the timeline for completing the summarized tasks. It is understood that additional tasks and level of coordination are required for examinations coordinated with the Consumer Financial Protection Bureau (CFPB) and for MMC examinations that simultaneously review both origination and servicing.

- **Prior to 120 days of the on-site examination:**
 - MMC identifies and obtains approval for the target MME to be examined.
 - CSBS staff creates the Examination on Box (MMC Exam Platform) and uploads the on-boarding documents to the MMC Exam Platform.
 - CSBS staff surveys states to determine which state(s) plan to participate in the MMC examination. Survey includes request for the Examiner-in-Charge (EIC) and Single Point of Contact (SPOC).
 - MMC selects the EIC and SPOC for the examination.
 - CSBS staff provides access to MMC Exam Platform for all participating examiners including the SPOC and EIC.

- **Within 120 days of the on-site examination:**
 - CSBS staff and the MMC Chair and/or Vice Chair hold an initial “purpose and mission” conference call with the EIC and SPOC. This includes a discussion of the initial scope of the examination, the anticipated length of examination, and the composition of the Participating States and examination team. Additional bi-weekly check-in calls will be scheduled by CSBS staff.
 - EIC requests the [Institution Supervisory Background/Examiner Profile Form](#) (ISB/EP Form) and electronic signatures authorizing the examination from all Participating States. When completing the ISB/EP Form, States must indicate their participating examiner(s), if they plan to go on-site, and if they have any additional information requests beyond the standard Information Request. Participating States must submit the completed ISB/EP Form to the EIC who will upload it to the MMC Exam Platform.
 - EIC begins review of all applicable databases and information in preparation for the multistate examination. Examples of databases include but are not limited to: NMLS; CFPB Complaint Portal, SAR data, FTC Consumer Sentinel database; FFIEC-LAR Data; HUD Neighborhood Watch; MME website; Internet search engines, social media; or individual state database.

- **Within 100 days of the on-site examination:**
 - EIC and SPOC conduct an initial conference call with the MME to cover all known information and a summary of the following:
 - Multistate examination purpose and process and the expected lines of communication.
 - Examination start date and expected length of examination.

- List of Participating States represented on the multistate examination.
 - Reiterate the protocol, as instructed in the Information Request, for future communication with the multistate examination team.
 - What information should be sent to the EIC vs. directly to the Participating States.
 - On-site requirements (space needed; access to key contacts; access to files, policies and procedures).
 - Obtain information relating to convenient hotels and other travel requirements.
 - Advise MME of the contents of the Exam Notification Letter and Information Request.
 - Confirm secure delivery of data related to information requests
 - EIC reviews the ISB/EP Forms submitted by the Participating States. EIC reviews state specific requests and consolidates for duplicate requests.
 - EIC prepares the [Exam Notification Letter](#) and Information Request ([Origination](#) and/or [Servicing](#)). The templates for these documents are included within the on-boarding documents on the MMC Exam Platform. Any state specific information requests should be identified by the Participating States on the ISB/EP Forms.
 - EIC begins the [Examination Plan](#). The template for the Examination Plan is included within the on-boarding documents on the MMC Exam Platform. The examination scope must be identified. EIC creates sub-committee assignments which are identified within the Examination Plan.
 - EIC utilizes the ISB/EP Forms to complete the examination team roster and examiner assignments within the Examination Plan.
 - EIC finalizes the Examination Notification Letter and the Information Request document by adding signatures, due dates, and state specific requests. The SPOC should review the Examination Notification Letter and the Information Request before they are sent to the MME.
 - EIC emails the Examination Notification Letter and the Information Request (including any state-specific requests) to the Participating States and MMC.
- **Within 90 days of the on-site examination:**
 - EIC sends the Exam Notification Letter and Information Request to the MME 90 days prior to the on-site start date. The Information Request includes a request for the loan lists of each Participating State. The MME's due date for completing the Information Request should be 30 days from the date the EIC sent the Exam Notification Letter and Information Request to MME being examined.
 - **Within 80 days of the on-site examination:**
 - EIC schedules a follow-up conference call with the MME and SPOC within 10 days of sending the Exam Notification Letter and Information Request to discuss the following:
 - EIC to answer any questions regarding the Information Request.

- EIC to remind MME of upcoming due dates for request items including RegulatorConnect uploads (where applicable) and Loan Logs.
 - If necessary, EIC will email the Participating States a summary of issues identified on the conference call.
- **Within 60 days of the on-site examination:**
 - EIC emails the Exam Plan to the examiners from the Participating States 60 days prior to the on-site start date.
 - EIC ensures that the MME has provided its Information Request (including loan lists for Participating States) by the deadline.
 - EIC uploads the MME's Information Request to the MMC Exam Platform and notifies the Participating States that it is available for review. This also includes the loan lists for each Participating State.
 - RegulatorConnect data to be uploaded to *ComplianceAnalyzer*® and applicable reports should be reviewed within ComplianceEase by the Participating States.
 - EIC directs the Participating States to make their loan selection from the lists provided by the MME. The loan selections will be due from the Participating States within 15 days of receipt from the MME. If a Participating State does not respond or provide its loan selection within the due date, the EIC should notify the SPOC.
- **Within 45 days of the on-site examination:**
 - EIC and SPOC schedule a conference call with examiners from the Participating States. Discussion items include, but are not limited to:
 - Confirm dates of on-site portion of the examination.
 - EIC to discuss strategy for on-site and off-site portions of the examination.
 - EIC to discuss examination logistical requirements.
 - EIC to discuss summary of issues and listen to feedback from states.
 - Review examiner sub-committee assignments.
 - EIC will forward the loan file selections to the MME 45 days prior to the on-site start date with a deadline of the loan files being due at least 15 days prior to the on-site start date. Instruct the MME to securely transfer the selected loan files to each Participating State via the MMC Exam Platform.
 - EIC will review the Information Request to ensure it is complete and all Participating States have received the information from the MME.
- **Within 30 days of the on-site examination:**
 - EIC finalizes the Exam Plan, which must be uploaded to the MMC Exam Platform. The EIC notifies the SPOC that the Exam Plan is complete. EIC and/or SPOC notify the MMC and Participating States within 30-days of the on-site start date that the Exam Plan is available for review.

- EIC works with the MME and Participating States on ongoing issues and concerns, updates, and delays.
 - EIC schedules a conference call with examiners from the Participating States (if needed).
 - Examiners with subcommittee assignments begin reviewing the related materials provided in the Information Request.
 - EIC inventories state-specific and general examination request items.
 - EIC contacts MME for any missing documentation.
 - EIC schedules a conference call with the SPOC (if needed).
 - EIC schedules a conference call with examiners from the Participating States to discuss any updates, delays or concerns (if needed).
 - EIC prepares the schedule for the on-site examination.
 - EIC sends the draft on-site schedule to the examiners from the Participating States. The examiners should ensure that they request any meetings with key staff for questions related to their sub-committee assignments. The Participating States will have five (5) days to review and send any edits/comments to the EIC.
- **Within 15 days of the on-site examination:**
 - EIC sends the on-site schedule to the MME.
 - EIC distributes all information received from the MME to the Participating States. The MME should provide copies of the loan files directly to the Participating States at least 15-days prior to the on-site start date.
 - Each week (if needed) the EIC and SPOC should have a conference call with the Participating States.
 - EIC reviews and organizes the received request items in preparation for the on-site portion of the examination. The Participating States should begin reviewing the information received from the MME.
 - EIC contacts the MME for any clarification on request items.
 - EIC provides states with any additional requested items received from the MME.
 - **Within 7 days of the on-site examination:**
 - Each state should have received the selected loan files from the MME. The EIC and Participating States should begin reviewing their selected loan files ahead of the on-site examination. Examiners should formulate their follow-up information requests in response to their loan file review prior to the on-site examination. Additionally, examiners should review material related to their sub-committee assignment.
 - The EIC and SPOC should have a conference call with the Participating States and the MME finalizing the logistics for the on-site examination. This call should be scheduled at least seven days prior to the on-site examination.

On-Site Examination

- Examination begins.

- Upon arrival at the MME, the EIC:
 - Confirms that the examiners have access to work stations, copy machines, printers, telephones, and examination records.
 - Meets with the examination team to review the scope, meeting schedule, and expectations for the week.
 - Meets with designated MME contact and confirms all outstanding request items are available for review.
 - EIC and examiners get a tour of the MME.
 - EIC determines the MME's key contacts and the responsibilities of each contact. The EIC should discuss with the MME and the examiners the protocols for access to the key contacts during the on-site week.
- EIC to brief SPOC on status of examination.
- EIC should have daily meetings with the Participating States (both on-site and off-site) to discuss any findings, issues, outstanding requests, possible meetings with MME, etc.
- EIC and Participating States meet with members of management and key MME staff.
- Last day on-site:
 - EIC should have a meeting with Participating States to determine outstanding requests and the procedures for the remainder of the examination.
 - EIC should have a meeting with the MME to discuss the outstanding items and the events that will occur the next few weeks. This will be a preliminary exit meeting.
 - EIC to update SPOC. The MMC will be updated by the SPOC and check in-calls held with CSBS staff.

Post On-site Examination

- **Immediately following the on-site examination:**
 - The EIC begins preparing the MMC Report of Examination ([Origination ROE](#) and/or [Servicing ROE](#)).
 - The Participating States write their examination findings and complete any subcommittee assignments.
- **Within 21 days after the on-site examination:**
 - The Participating States submit their examination findings and subcommittee assignments to the EIC.
- **Within 30 days after the on-site examination:**
 - The EIC must notify the SPOC if any Participating State has not submitted their findings or subcommittee assignments. The SPOC will work with the EIC to follow-up with the relevant Participating State(s).
 - The EIC incorporates the findings and subcommittee assignments from the Participating States into the draft ROE.
 - EIC continues drafting and editing the ROE.

- **Within 45 days of the on-site examination:**
 - The SPOC must notify the MMC if any Participating State has not submitted their findings or subcommittee assignments. The MMC will reach out to the main mortgage contact for the relevant Participating State(s).

- **Within 60 days of the on-site examination:**
 - The EIC must have an initial draft of the ROE.
 - The EIC will notify the SPOC that the initial draft ROE is ready for review.
 - The SPOC will review and edit the ROE.
 - SPOC must notify the MMC if a draft of the ROE is not complete.

- **Within 70 days of the on-site examination:**
 - The EIC will notify the Participating States that the draft ROE is available for review. The Participating States will have five days to review and edit the ROE.

- **Within 75 days of the on-site examination:**
 - The EIC will review any suggested edits made by the Participating States.
 - The EIC will send the ROE to the SPOC for final review. The SPOC will have five days for final review of the ROE.
 - The EIC or SPOC must share a copy of the draft ROE with the CFPB for any MMC examinations coordinated with the CFPB.

- **Within 80 days of the on-site examination:**
 - The SPOC notifies the MMC that the ROE is ready for review. *(The MMC Chair must contact the SPOC if the ROE is not ready to be reviewed.)*

- **Within 90 days of the on-site examination:**
 - The MMC reviews and approves the ROE.
 - The MMC Chair notifies the EIC and SPOC that the ROE has been approved. If applicable, the EIC will review and implement suggested edits from the MMC.

- **Once the MMC has approved the ROE:**
 - The EIC finalizes the ROE and sends it to the MME. The EIC must upload these final documents to the MMC Exam Platform.
 - The [ROE Cover Letter](#) will state that the MME has 30 days to provide its written response. *(MMC Policy is to provide one 30-day extension to the MME if requested.)*
 - Once the MME has provided the written response to the ROE the EIC will notify the Participating States that the response is ready to be reviewed and will upload the MME's response to the MMC Exam Platform. The EIC will solicit responses from the Participating States as to whether they accept or reject the response from the MME. The EIC must also survey the Participating States as to whether there is a desire to create an enforcement

referral. It is recommended that the EIC request that the Participating States complete their review of the MME's response within 10 days.

- The EIC or SPOC must notify the MMC that the examination is ready to be closed. At this time there should be discussion between the EIC, SPOC, and the MMC to review any responses from Participating States that desire to move the examination to enforcement. If applicable, the EIC and SPOC will work with the MMC in the preparation of the enforcement referral. The MMC will submit the enforcement referral.
- The EIC will prepare the [Closing Letter](#) that will be shared with the SPOC and Participating States.
- The EIC will send the Closing Letter to the MME. If an enforcement referral will be made it must be noted within this Closing Letter.
- The EIC will remind the Participating States that they may provide separate examination billings to the MME and that examiners should record their time on the examination on the MMC Exam Platform
- The EIC should complete any remaining milestones listed on the MMC Exam Platform.

Technology for Portfolio Review

The *Technology for Portfolio Review* module provides guidance to examiners on how to utilize ComplianceEase® tools to aid the compliance monitoring process.

Introduction

Automated compliance tools make the examination of mortgage loan portfolios more efficient, effective and uniform. With the ability to process large amounts of data quickly, these tools allow examiners to scope a portfolio of loans and focus their review efforts on those loans exhibiting the highest risk characteristics. Automated loan review tools are a supplement to the procedures outlined in this manual. As such, these tools do not replace traditional examiner review and judgment.

The primary electronic examination (e-Exam) tool used by state regulators is known as ComplianceAnalyzer® with TRID Monitor™ (ComplianceAnalyzer) and is made available to state regulators through an agreement between CSBS and LogicEase, Inc (dba ComplianceEase®). Additional e-Exam tools include RESPA Auditor™ and Examination Dashboard™ and are made available through this same agreement. Throughout this manual, these tools may be referred to as the ComplianceEase® suite. ComplianceEase's suite is available to both regulators and licensees. It is important to recognize that there are many commercially available compliance solutions from which licensees may choose. The selection of ComplianceEase® tools by CSBS and AARMR should not be viewed as an endorsement of these products. However, because the ComplianceEase® suite was selected by the CSBS and AARMR as the regulatory exam tools for use by state regulators, the steps below explain how these e-Exam tools may be incorporated into an examination.

ComplianceAnalyzer uses both internal and external data to complete its compliance analysis. The external data is provided by licensees or MMEs while the internal data is embedded within the system. The external data received from the licensee must be provided in a specific format. This format is known as the Lending Examination Format (LEF) file and is available for license on www.regulatorconnect.org. Once registered, a licensee can obtain the necessary information to generate their data in an LEF. This same site also facilitates the file exchange between the regulator and the licensee. Once the licensee has generated the requested data in an LEF, the data can be delivered electronically to the regulatory agency. The online portal www.regulatorconnect.org provides more detail on how a licensee can produce an LEF and use the RegulatorConnect™ system to delivery loan information.

Using ComplianceAnalyzer® for Portfolio Audit

Examination Notification

The use of ComplianceAnalyzer® in an examination begins with the notification of an upcoming examination. The licensee should be informed that the examination will use an

e-Exam process to review loan data. A licensee's first step in preparing for this process is to check with their existing software vendor(s) to see if the vendor(s) supports an LEF export. Many software vendors in the mortgage origination industry already provide LEF functionality. However, with the advent of the TRID/KBYO regulations LEF export capability may need updates by the vendor to produce the enhanced data requirements. If the vendor does not provide the ability to export data in LEF format, the licensee should visit www.regulatorconnect.org and follow the steps to generate their data in LEF format.

Delivery of Loan Data

Once a licensee's data has been generated in the LEF file format, the licensee can transmit that data electronically to regulators via www.regulatorconnect.org. The regulator will receive an email notification once the licensee's LEF data has been submitted into the RegulatorConnect system.

Note: Licensees already using ComplianceAnalyzer can use a built-in feature within ComplianceAnalyzer called RegulatorDirect® to submit the loan data to regulators without producing an LEF file.

Processing the data

Licensee data is processed through a function of ComplianceAnalyzer® known as AutoBatch™. This function accepts the data in LEF format provided by licensees and processes the entire file automatically. The resulting output from AutoBatch™ is as series of loan-level audits, as well as high-level reports that summarize a licensee's entire portfolio.

Interpreting audit reports—the Examination Dashboard

Loan-level audit reports and the Examination Dashboard contain the results of a ComplianceAnalyzer AutoBatch™ audit. These reports contain information to assess a portfolio's compliance with laws and regulations.

The Examination Dashboard displays portfolio level data, allowing examiners to assess the types of loans and risks present in the entire portfolio, as well as the pass/fail rates for the various tests performed by ComplianceAnalyzer. Exhibit 1 is an example of a risk distribution chart found within the dashboard.

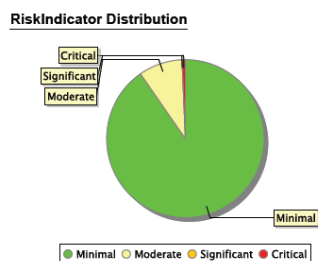


Exhibit 1

Further, the dashboard provides general portfolio information such as loan-type distribution, lien-type distribution, property-type distribution, and lending program distribution. This data allows examiners to not only locate loans with a particular compliance risk profile, but also to gain an understanding of the types of loans a MME is originating.

Interpreting Audit Reports—the Mortgage Compliance Analysis Report:

While the Examination Dashboard provides portfolio data, the system also allows a review of an individual loan's compliance results. The *Mortgage Compliance Analysis Report* displays the risk level and compliance test results for each loan processed. Exhibit 2 shows the different risk indicators provided by the system. For detail on the causes of a particular risk indicator, examiners should refer to the *Findings Summary Report*, which explains which failed test(s) cause a particular risk indicator. Examiners are encouraged to expand examination procedures for loans with a risk indicator of moderate and above.

Exhibit 2

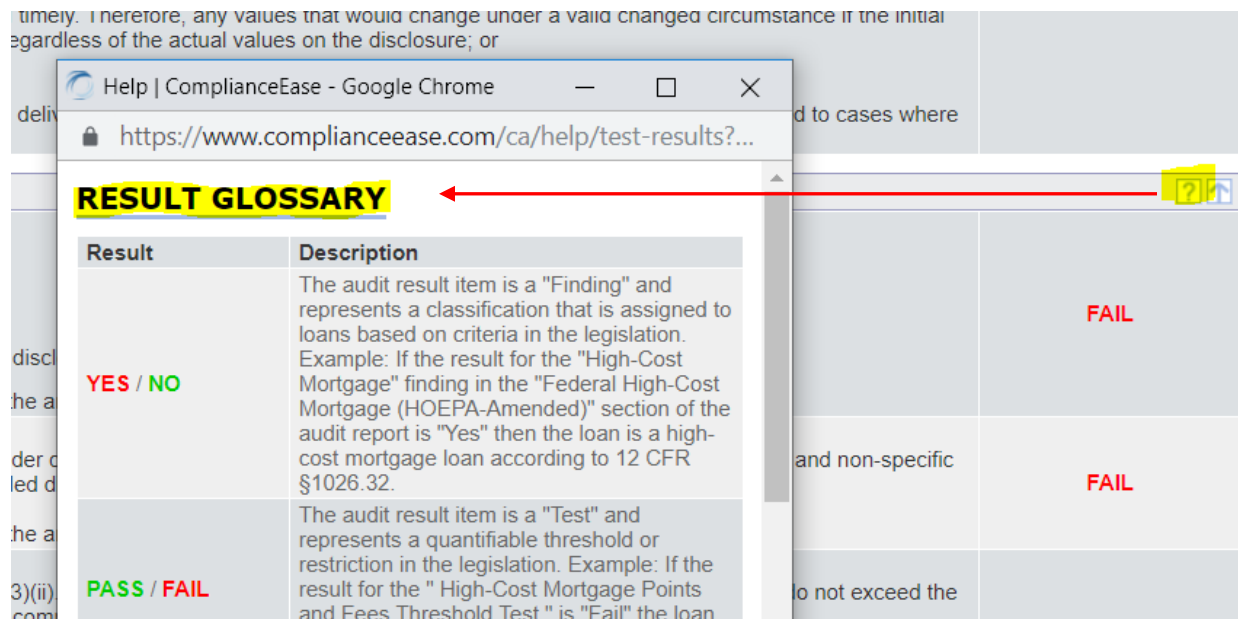
Risk Indicator	Risk Classification
 Critical	
 Significant	
 Moderate	
 Elevated	
 Minimal	

Because each loan in a batch is processed individually through the AutoBatch™ process, the examiner may select any loan from the audit report to view a more detailed analysis, which will provide information on the specific lending tests performed and whether or not the loan passed these tests. Failed loan tests will be designated with the word *Fail* or a red X next to them, while loans that pass will be designated with a green *Pass* or a green checkmark. If the word *Alert* is next to a test, it denotes a non-quantifiable risk and the loan will require additional verification by the examiner. If a particular lending test is not performed on the selected loan, *not tested* will appear next to that test.

Further Analysis:

When an examiner clicks on the blue question mark icon in a particular section of an audit report, the ComplianceAnalyzer system provides a more detailed explanation of how to interpret the audit results in that section. To learn more about a particular test result, an examiner can click on the heading within the relevant section of a report to learn more about the regulation that triggered the lending test result of *Fail*, *Pass* or *Alert*. failure, pass, or alert. For example, if a loan fails the Initial Loan Estimate Disclosure Date test, the examiner can select the *Initial Loan Estimate Timing Requirements* link found in the header line of that section of the report.

ComplianceAnalyzer will display the language found in that section of the Federal regulations that triggered that loan's failure. Similar functionality exists for Federal, state and local lending regulations, change in circumstance and fee tolerance. In this manner, the system serves as an effective lending regulations database that is easily accessible to examiners.



Using ComplianceAnalyzer® with TRID Monitor™ to Scope a Loan Portfolio

Once ComplianceAnalyzer has processed a portfolio of loans, an examiner can use the resulting reports to select loans for examiner review. The audit reports and Examination Dashboard identify loans and types of loans that an examiner may wish to include in the examination's scope. It is recommended examiners review all loans with *Critical*, *Significant*, or *Moderate* RiskIndicator risk levels.

These loans exhibit characteristics that warrant additional examiner review. Loan numbers and other identifying information can be easily found within the audit reports. Examiners may also want to select a sample of loans that have been assigned *Minimal* and *Elevated* RiskIndicator levels, in order to perform general verifications on the data integrity of the loan information in the portfolio.

Using ComplianceAnalyzer® with TRID Monitor™ for Single Loan Audits

ComplianceAnalyzer® with TRID Monitor™ can be used to analyze an individual loan file without going through the batch audit (AutoBatch™) process explained above. To begin, the examiner should select the appropriate link from ComplianceAnalyzer®'s main menu, depending on the type of loan to be reviewed (conventional mortgage loan or HELOC) and when the loan was originated (pre-2010, RESPA 2010 and post-TRID).

From here, the process is straightforward. Examiners complete the onscreen form with data found in the loan file. To complete a review of most mortgages, examiners will need to refer to (1) the note, (2) the 1008, (3) Change of Circumstance Disclosures, (4) all Loan Estimates and Closing Disclosures, (3) the fee worksheet, and (4) the mortgage

Loan Origination

Introduction

The MMC has responsibility for reviewing and enforcing compliance by Multistate Mortgage Entities (MMEs) with certain consumer protection regulations, including state specific mortgage lending regulations and federal lending laws and regulations, and other applicable laws and regulations, such as the Bank Secrecy Act (BSA). While compliance with regulations is only one aspect of a MME's operations, the presence of violations and the absence of an effective compliance program reflect adversely on management and the board of directors. These items may be indicative of inadequacies in other areas of management responsibility.

Failure to comply with regulations or to possess an adequate internal control process that promotes compliance can also expose a MME, its directors, and officers to costly civil liability, litigation, and a loss of customer goodwill. Any of these may lead to reputational risk resulting in significant negative outcomes to the MME. Additionally, noncompliance with regulations may subject the MME to enforcement actions by the state or a Federal or State agency responsible for enforcement.

Even though most areas of examination activity involve some aspects of compliance, this module is limited to those regulations which lend themselves to a stand-alone examination process. To accomplish a stand-alone examination process, samples are periodically drawn and tested to measure a MME's compliance with regulations. The degree and depth of sampling should ordinarily be based on risk determined to be present. This risk may be minimal if policies, procedures, and internal controls are adequate and previous examinations or internal reviews have not disclosed substantive violations. However, if policies, procedures and internal controls are inadequate and/or substantive violations were previously detected, the examiner-in-charge (EIC) must ensure that sufficient testing is conducted to adequately evaluate the compliance area being tested.

If material violations are identified in areas with limited examination samples, additional sampling may be necessary to determine the cause of the problem (e.g., a pattern or practice, or an isolated error). In addition, testing should include a review of the extent and types of noncompliance disclosed in previous examination activity and the adequacy of corrective action taken by the MME since the previous examination. More specific sampling techniques are described elsewhere in this section.

To aid examiners in understanding and evaluating regulatory compliance, flow charts and workpapers have been provided where practicable. The flow charts, included as a separate section in this module, provide the examiner with a simplified road map for walking through the regulations. The workpapers, provided to examiners separately from this manual, facilitate the documentation of the examination process when necessary.

Examination Objectives

- Determine if policies, procedures, and a system of internal controls provide adequate assurance that regulatory requirements will be met;
- Determine if the MME's personnel are adhering to prescribed procedures;
- Determine if deficiencies are brought to management's attention for appropriate corrective action.

The [Mortgage Origination Exam Procedures](#) are intended to facilitate and assist the examiner.

Scoping

Prior to notifying a MME about an examination, it is always recommended that examiners pre-scope the examination using tools at their disposal. These tools include but are not limited to reviewing any internal databases, the MME's NMLS record, complaints including any available databases such as the CFPB complaint portal and/or the FTC Consumer Sentinel, the MME's website, general Internet search engines (e.g. Google), social media, litigation, and SEC filings (if applicable). The information available on the MME's mortgage call reports filed via the NMLS allows an examiner to identify numerous characteristics of the MME's loan portfolio such as the types of loans being originated and the prevalence of certain loan products.

Within the NMLS examiners are strongly encouraged to view the MCR data available through analytics. The analytics tool allows examiners to look for trends, isolate sections of the MCR for closer review, run reports, and analyze MME loan and financial data in comparison to peer groups.

Another tool through the MCR is the Origination Examiners' Report, a summary drawn from MCR data showing a variety of financial, operational and performance data for the lender and period selected.

An origination exam begins by sending an exam notification letter to an institution along with a request for the MME to complete an Information Request (i.e. examination questionnaire) and provide a list of all loans originated during the scope period of the examination. From the loan list the examiner should request a variety of loans during the scope period which would include loans that have been closed or were withdrawn, denied, or cancelled.

Before picking a sample of loans to examine, the EIC should review any existing complaints or litigation. If complaints or litigation exists for certain categories of loans, such categories should represent a higher percentage of the loan sample. The loan list and MCR data can be leveraged to identify loans with criteria that an examiner may want to focus more on non-traditional loan products. The selection of loans for use should be based, to a degree, on what issues the MME is mostly dealing with in a given period. For example, if a MME is originating non-QM or high-cost mortgages, examiners should

employ some target specificity and review samples of those loan types. The size of the loan sample should reflect the size and complexity of the MME.

Comprehensive File Review versus Sampling

Traditionally, examination processes have employed a file review method known as “sampling” to determine which files will need to be examined further.

Compliance Sampling Techniques

There are two accepted types of compliance sampling techniques – judgmental and statistical. Judgmental sampling is normally more efficient and effective than statistical sampling in uncovering disclosure violations that may exist in mortgage loans and consumer protection areas. Because the volume of consumer loans is relatively small in most MME operations, it is contemplated that judgmental sampling will generally be used. However, in addition to judgmental sampling, a brief discussion of statistical sampling is included below. The EIC and supervisors or examiners are encouraged to follow any valid sampling methodologies prescribed by their state-specific procedures or commonly utilized in their examinations.

Judgmental Sampling

Judgmental sampling accommodates the risk-based approach to examining by allowing examiners to target areas for testing based on what is perceived as risk. The EIC develops focal points of risk based upon ongoing monitoring activities, prior examination findings, discussions with management, and any additional information discovered during survey activities.

Targeted or judgmental samples typically consist of several smaller samples of specific loans tailored to fit the particular concerns being investigated. This type of sampling is generally more effective and efficient than random or statistical sampling since examiners are reviewing for only one or two pertinent factors on a smaller targeted sample instead of examining several generic items on every loan in a larger random sample. The depth of testing is continually reevaluated based on examination results. When sufficient work has been done to reach a conclusion, no further testing is required. If a conclusion cannot be reached, then the targeted sample should be expanded or refocused on those areas of significant risk.

The examiner should select samples from various loan categories to ensure the sample captures each type of mortgage loan transaction with different characteristics. If disclosure or other violations are apparent in any type of transaction, the sample of that transaction type should be expanded to a level where the examiner is satisfied, after investigating the apparent cause or source of the violations, that a pattern or practice of such violations either does or does not exist.

Loans to be tested for compliance should be selected from applications received and closed since the last examination. The identification of mortgage loans might also be accomplished by using criteria such as: loan type, interest feature, settlement fees, and other criteria extracted from the specific regulations being tested) that are indicative of mortgage loans.

Factors considered when making mortgage loan sample selections may include the following loan characteristics:

- **Loan Status.** Closed, denied, cancelled, or withdrawn.
- **Loan Purpose.** Purchase or refinance.
- **Loan Type.** Conventional, FHA-insured, VA-guaranteed, or FSA / RHS-guaranteed).
- **Interest Rate.** Fixed rate or adjustable rate.
- **Product Line.** Retail or wholesale.
- **Loans made by various mortgage loan originators or branch offices.**
- **Qualified Mortgage (QM) and Non-QM.**
- **Non-Traditional Mortgage Products.**
- **High-Cost or Higher-Priced Mortgages (HPMLs).**

Discussions with management and loan officers will identify additional mortgage loans that may have been overlooked. This approach can also identify the “population or universe” of mortgage loans and, if such loans are numerous, statistical sampling techniques could be applied to facilitate the review for compliance with applicable regulations. In addition to mortgage loans, the MME's denied application log and/or file can be reviewed to evaluate compliance with adverse action regulations.

Once examiners have received the loan files in their sample, they will review each loan for compliance with federal and applicable state regulations. Examiners will utilize any tools such as line sheets for guidance in reviewing the loans for compliance requirements.

Statistical Sampling

Definition: *A method of selecting a portion of a population, by means of mathematical calculations and probabilities, for the purpose of making scientifically and mathematically sound inferences regarding the characteristics of the entire population.*

To maintain statistical validity, each item in the population should have an equal chance of being selected for the sample. Statistical sampling may be desirable in certain circumstances. For example, when numerous, seemingly unrelated violations are noted, the examiner may wish to obtain a statistical sample to determine the probable extent of such violations throughout the consumer loan portfolio. A volume of such violations sufficient to indicate a breakdown in established procedures could be considered a pattern or practice warranting reimbursement or civil money penalties. Statistical sampling is also helpful in attaining a representative, random sample from a large universe of mortgage loans.

Flow Charts and Workpaper Documentation

Where practicable, a flow chart and applicable workpapers are provided to simplify an examiner's journey through the intricacies of certain regulations. These flow charts (i.e., road maps) were developed with an "on/off switch" approach. Either the answer is "yes", and compliance is required (the journey continues), or the answer is "no" and the regulation is not applicable (the journey is over). While an experienced examiner who evaluates compliance with some regularity may not need a flow chart, inexperienced examiners or those who infrequently evaluate compliance may find the flow charts to be a useful tool for establishing familiarity with the regulations. Flowcharts are included as a separate section in this module.

Workpapers were developed to facilitate documenting an examiner's evaluation of compliance with the various regulations. These workpapers are provided to examiners separate from this manual. Although all workpapers are optional, some are well suited to providing the best means of documenting a MME's compliance with certain regulations. Each workpaper is numbered, and where appropriate within the violation summary sheet, specific reference is made to these numbered workpapers.

State Laws and Regulations

In general, examiners should access applicable state laws when appropriate. Examiners should request such laws from the state regulatory entity in which he or she is performing an evaluation. For mortgage operations in most states, MMEs must comply with a state mortgage lending law, a state predatory lending law, a state mortgage fraud act, the state's SAFE Act, and a number of other possible state laws. In addition to requesting such laws from the appropriate state department, examiners can access applicable state laws through the ComplianceEase® tool ComplianceAnalyzer®.

The portfolio review tool, ComplianceAnalyzer®, offers a lookup function for state and federal lending rules and regulations. This function is available after loan data has been processed by the system. Once loan data has been processed, the user should access the *Mortgage Compliance Analysis Report* within the system. The *Findings Detail* section of this report contains information on which tests, both state and federal, the loan did not pass. For example, if a particular loan failed Federal Truth-in-Lending regulations, failure will be indicated by a red "FAIL" and a description of the circumstances causing failure is provided. If more detail is needed on a particular rule or regulation, the description will include a hyperlink to the specific language as it appears in legislation.

Users with access to ComplianceAnalyzer® also have access to the legislative database used by the system to process loan data. This database is called *BillTracker®*. By selecting *BillTracker®* from the main menu on the ComplianceEase® website, the user will be directed through a series of pages to locate the desired rule or regulation. The *BillTracker®* system contains all relevant federal lending rules and regulations, as well as state and local rules and regulations from all state jurisdictions and Puerto Rico. The

BillTracker® database is updated regularly and even includes references to legislation that has been passed but is awaiting enactment.

Equal Credit Opportunity Act

Authority and Purpose

The [Equal Credit Opportunity Act \(ECOA\)](#) was enacted through an amendment (which added Title VII) to the Consumer Credit Protection Act. The CFPB codification of ECOA begins with §1002.1 et seq and it is also referred to as Regulation B.

The purpose of ECOA and the regulation is to promote the availability of credit to all creditworthy applicants without regard to:

- Race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract);
- The fact that all or part of the applicant's income derives from a public assistance program; or
- The fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

ECOA prohibits creditor practices that discriminate on the basis of any of these factors. It also requires creditors to notify applicants of action taken on their applications; report credit history in the names of both spouses on an account, if applicable; retain records of credit applications; collect information about the applicant's race and other personal characteristics in the applications for certain dwelling-related loans; and provide applicants with copies of appraisal reports used in connection with credit transactions.

Examination Objectives

- Determine that policies, procedures and internal controls relating to ECOA have been established and evaluate their adequacy to provide reasonable assurance of compliance.
- Evaluate adherence to established policies, procedures, and internal control guidelines.

Applicability and Exemptions

ECOA applies to all creditors and most types of loan transactions. Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce ECOA over MMEs. Generally, FRB Regulation B alters, affects, or preempts only those State laws that are inconsistent with ECOA and the regulation, and then only to the extent of the inconsistency. A State law is not inconsistent if it is more protective of the applicant.

The [ECOA Examination Procedures](#) are intended to facilitate and assist the examiner.

Home Mortgage Disclosure Act

Authority and Purpose

The [Home Mortgage Disclosure Act \(HMDA\)](#), (1003.1 et seq.) requires each covered MME to disclose on an annual basis its mortgage loan originations, purchases, and applications (i.e., loans secured by and made for the purpose of purchasing or improving a dwelling, including) refinances. The information is required to be itemized by census tract (or by county, in some instances) and by the type of loan. Data must be recorded on a Loan/Application Register (HMDA-LAR) that each reporting MME is required to send to its Federal supervisory agency by March 1 following the calendar year for which the data are compiled. In addition, a disclosure statement covering the data on a calendar year basis must be made available to the public for inspection and copying.

As the name implies, HMDA is a disclosure law that relies upon public scrutiny for its effectiveness. HMDA evolved from public concern over credit shortages in certain urban neighborhoods. Congress found that some financial institutions had contributed to the decline of some geographic areas by their failure to provide adequate home financing to qualified applicants on reasonable terms and conditions. Therefore, the purpose of HMDA is to provide the public with loan data that can be used to: (1) help determine whether financial institutions are serving the housing needs of their communities; (2) assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes. However, neither HMDA nor FRB Regulation C is intended to encourage unsound lending practices or the allocation of credit.

Applicability and Exemptions

A MME must make its HMDA-LAR available to the public after removing the application or loan number, date application was received, and date of action taken. This must be available following the calendar year for which the information was compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. This modified register does not have to be compiled before a request is received, but it must be available for a period of 3 years.

The Federal Financial Institutions Examination Council (FFIEC), in conjunction with the Federal supervisory agency, produces disclosure statements based on the HMDA-LAR. A MME is required to make its mortgage loan disclosure statement available to the public no later than three business days after the MME receives it from its supervisory agency. The MME shall make the statement available to the public for a period of five years. The statement must be made available at the MME's home office (corporate headquarters or service center headquarters) and, if it has a physical branch office in other MSAs, it must also make the statement available in at least one branch office in each of those MSAs.

Branch offices in an MSA must make a copy available within 10 business days.

MMC mortgage banker institutions would be exempt from the requirements of FRB Regulation C for a given calendar year if the MME had neither a home office nor a branch office in an MSA on the preceding December 31; and the MME's total assets were \$10 million or less on the preceding December 31, or the MME originated fewer than 100 home purchase loans in the preceding calendar year. MMEs also need not complete a report, even if they meet the test for asset size and location, if the home purchase loans originated in the preceding calendar year came to less than 10 percent of the MME's total origination volume, measured in dollars.

NOTE: It is important to note that for “mortgage lending institutions” the definition of branch office extends beyond a physical presence. These types of entities are deemed to have a branch office in an MSA if, in the preceding calendar year, it received applications for, originated, or purchased five or more home purchase or home improvement loans on property located in that MSA. This five-or-more rule applies in determining, for purposes of coverage, whether a MME has an office within an MSA, and whether a MME must itemize data by census tract within a given MSA.

Final Rule for the Home Mortgage Disclosure Act Changes (Reg.C) Effective October 1, 2009

On October 20, 2008, the Federal Reserve announced the final rule for the Home Mortgage Disclosure Act changes. These changes were originally proposed in July 2008 when final Regulation Z rules were published.

HMDA revisions were made to:

- Facilitate regulatory compliance by conforming the test for rate spread reporting Under Reg. C to the definition of Higher-Priced Mortgage Loans (HPML) under Reg. Z
- To use a benchmark that more closely tracks mortgage rates.
- Relieve compliance burdens.

The primary change to HMDA that will be critical for all HMDA reporting institutions is the change in the rate spread calculation. Currently, HMDA rate spread must be calculated for all reportable loans that are covered by Regulation Z where the APR exceeds the comparable Treasury security rate by 3% for first lien loans and 5% for subordinate lien loans. Keep in mind that HMDA calculations are not, and never were, the calculations for Section 32 mortgages (i.e., HOEPA loans).

For all applications received on or after **October 1, 2009**, a HMDA reportable institution will calculate the rate spread using the new calculation. For all loans that close after **January 1, 2010**, the new calculation will apply regardless when the application was taken. Otherwise, if a loan application was received prior to October 1, 2009, the old calculation will apply. The new HMDA revisions take the current HMDA rate spread

calculation and align it with Regulation Z's HPML loan calculation. So now, **instead** of calculating your spread based on **3% and 5%** over **Treasury security rates**, you will calculate it based on **1.5% and 3.5%** over the new **Average Prime Offer Rate**.

The link to the Rate Spread Calculators and tables for "Average Prime Offer Rates" that are posted weekly can be found below. Rate spreads need to be calculated differently depending on the final action date of the loan:

- [Calculator](#) for loans with a final action taken **prior to December 31, 2017**.
- [Calculator](#) for loans with a final action taken **on or after January 1, 2018**.

Examination Procedures

Qualification

Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce FRB Regulation C and HMDA over MMC mortgage banker institutions.

1. Did the institution have a home office or a branch office in an MSA on the preceding December 31, and did the institution have more than \$10 million in assets on the preceding December 31, or did the institution originate 100 or more home purchase loans in the preceding calendar year?
2. Did the institution originate home purchase loans which equaled or exceeded 10 percent of its total loan origination volume, measured in dollars, in the preceding calendar year?

If the institution did not have an office in an MSA, then it is not required to complete a HMDA-LAR and no further examination work is required. If the institution does have an office in an MSA and the answer to either the asset size or number of loans questions is affirmative, then the HMDA-LAR must be completed, and further examination work may be required. If the institution does have an office in an MSA and the answer to both asset size and number of loans is negative, the HMDA-LAR is not required, and no further examination work is required. Furthermore, regardless of location, size, or number of loans originated, the institution is not required to complete a HMDA-LAR if the answer to the second question regarding the 10-percent loan origination rule is negative.

Examination

If the institution is subject to HMDA, the [HMDA Exam Procedures](#) are provided to facilitate an evaluation of compliance with HMDA and FRB Regulation C. Consistent with risk-based examination principles, examiners should add, delete, or modify procedures as needed based on the particular circumstances of the institution.

Truth in Lending Act

Authority and Purpose

The [Truth in Lending Act \(TILA\)](#) was enacted on May 29, 1968, as Title I of the Consumer Credit Protection Act. TILA, implemented by the Federal Reserve Board (FRB) Regulation Z, became effective July 1, 1969. The Truth in Lending Simplification and Reform Act was enacted on March 31, 1980, as Title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980. The FRB amended FRB Regulation Z in December 1987 to implement section 1204 of the Competitive Equality Banking Act of 1987. The amendment requires creditors to provide consumers with more extensive information about the variable rate feature of closed-end adjustable rate mortgages (ARMs), with longer than a 1-year maturity, that are secured by the consumer's principal dwelling.

On July 30th, 2009 the FRB 's new Mortgage Disclosure Improvement Act (MDIA) went into effect. The rules were finalized Friday, May 8th, 2009 and are applicable to all mortgage lenders (federally chartered or state licensed). On August 16, 2010, the FRB announced final rules to protect mortgage borrowers from unfair, abusive or deceptive lending practices that may arise from loan originator compensation practices. Under the final rules, a loan originator may not receive compensation that is based on the interest rate or other loan terms. This will prevent loan originators from increasing their own compensation by raising the consumers' loan costs, such as by increasing the interest rate or points. Loan originators may continue to receive compensation that is based on a percentage of the loan amount. The rules also prohibit a loan originator who receives compensation directly from the consumer from also receiving compensation from the lender or another party. The rules seek to ensure that consumers who agree to pay the originator directly do not also pay the originator indirectly through a higher interest rate, thereby paying more in total compensation than they realize. Loan originators also may not direct or steer a consumer to accept a mortgage that is not in the consumer's interest to increase the originator's compensation.

On August 16, 2010, the FRB issued final rules to require organizations acquiring mortgages to inform consumers that their mortgage loans were sold or transferred. The new disclosure requirements were required by the Helping Families Save Their Homes Act. Under the law, a purchaser or assignee that acquires a mortgage loan must provide the required disclosures in writing within 30 days.

The purpose of Regulation Z (1026.1 et seq.) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost so that consumers will be able to more readily compare the various terms available and avoid the uninformed use of credit. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on the consumer's principal dwelling. The regulation does not govern charges by financial institutions for consumer credit or contain requirements related to the granting of consumer loans.

Applicability and Exemptions

In general, Regulation Z applies to each individual or business that offers or extends credit when the following four conditions are met: (1) the credit is offered or extended to consumers; (2) the offering or extension of credit is done regularly; (3) the credit is subject to a finance charge or is payable in more than four installments; and (4) the credit is primarily for personal, family, or household purposes. Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce Regulation Z over MMEs.

The [Truth in Lending Act Exam Procedures](#) are intended to facilitate and assist the examiner.

Fair Credit Reporting Act

Authority and Purpose

The [Fair Credit Reporting Act \(FCRA\)](#) deals with the rights of consumers in relation to their credit reports and the obligations of credit reporting agencies and the businesses that provide information to them. The FCRA has been revised numerous times since it took effect in 1971, notably by passage of the Consumer Credit Reporting Reform Act of 1996, the Gramm-Leach-Bliley Act of 1999, and the Fair and Accurate Credit Transactions Act of 2003 (FACT Act).

The FACT Act created new responsibilities for consumer reporting agencies and users of consumer reports. It also created new rights for consumers including the right to free annual consumer reports and improved access to report information with the aim of making data in the consumer reporting system more accurate.

Applicability and Exemptions

The FCRA applies to information obtained primarily for purposes of consumer lending and other consumer transactions. Thus, the consumer report user obligations of FCRA apply to MMEs only with respect to credit transactions for personal, family, or household purposes. The obligation of MMEs to comply with FCRA for consumer credit transactions is reflected applicable state laws and the multistate mortgage examination protocol and agreement.

The FCRA also imposes a number of FCRA reporting notices and compliance obligations on consumer reporting agencies which compile, maintain, and disseminate consumer information. It is unlikely; however, that MMEs would be deemed consumer reporting agencies under FCRA. §1022 generally restricts the use of data regarding borrowers and loan applicants. In addition, FCRA permits unrestricted reporting of a business' own experience with a consumer, such as loan payment history, etc., so that MMEs could share such information with each other and outside organizations in accordance with FCA Regulation without becoming consumer reporting agencies as defined in 15 U.S.C.

1681a(f).

If, through its consumer lending activities, a MME qualifies as a user of consumer reports, it must comply with §1022.72 of the FCRA. §1022.72 of the FCRA requires that whenever a creditor reduces or denies the amount of, or increases the cost of, credit, either wholly or partly, because of information contained in a consumer report, this must be disclosed to the consumer. A statement, preferably in writing, that information in the report caused or contributed to the denial or increase in cost, and the name and address of the reporting agency must be given to the consumer. If the information is from a source other than a reporting agency, the creditor must inform the applicant of the applicant's right to make a written request for the information when the denial is made known to the applicant. If the applicant requests the information within 60 days after being notified of the adverse action, the creditor must disclose the nature of the information to the applicant.

To facilitate an understanding of FRB Regulation B, some of the pertinent provisions for citation purposes are listed without explanation but can be referenced in the regulation itself. Note that this is a summary of the regulation and is not comprehensive.

Coverage

Business entities that are consumer reporting agencies have significant responsibilities under the FCRA; business entities that are not consumer reporting agencies have somewhat lesser responsibilities. Generally, financial institutions are not considered consumer reporting agencies; however, those that engage in certain types of information-sharing practices can be deemed consumer reporting agencies. In addition, the FCRA applies to MMEs that operate as:

- Procurers and users of information (for example, when granting credit, purchasing dealer paper, or opening deposit accounts),
- Furnishers and transmitters of information (by reporting information to consumer reporting agencies or other third parties, or to affiliates),
- Marketers of credit or insurance products, or
- Employers.

Examination Objectives

- Determine whether the MME makes the disclosures required of users of consumer reports when adverse action is based wholly or partly on information obtained from outside sources.
- Determine whether the MME's activities make it subject to the consumer reporting agency requirements of the FCRA, and, if so, ensure it is in compliance with those requirements.

The [Fair Credit Reporting Act Exam Procedures](#) are intended to facilitate and assist the examiner.

Real Estate Settlement Procedures Act

Authority and Purpose

The [Real Estate Settlement Procedures Act \(RESPA\)](#) (12 USC §2601 *et seq.*) became effective on June 20, 1975. RESPA requires lenders, brokers, or servicers to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. RESPA also protects borrowers against certain abusive practices, such as kickbacks and referral fees, and places limitations upon the use of escrow accounts. The Department of Housing and Urban Development (HUD) promulgated Regulation X (24 CFR §1024), which implements RESPA. The National Affordable Housing Act of 1990 amended RESPA to require detailed disclosures concerning the transfer, sale, or assignment of mortgage servicing. It also requires disclosures for mortgage escrow accounts at closing and annually thereafter, itemizing the charges to be paid by the borrower and what is paid out of the account by the servicer.

RESPA was revised in 2014 to implement the Truth in Lending and RESPA Integrated Disclosures (TRID). The Good Faith Estimate and the Initial Truth in Lending Disclosure were merged to create the Loan Estimate (LE). The HUD Settlement Statement and the Final Truth in Lending Disclosure were combined to form the new Closing Disclosure (CD).

Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce FRB Regulation X over MMC MMEs.

Examination Objectives

Determine that policies, procedures, and internal controls have been established and evaluate their adequacy to provide reasonable assurance of compliance with the requirements of Regulation X.

Evaluate adherence to established policies, procedures, and internal control guidelines. The [RESPA Exam Procedures](#) are intended to facilitate and assist the examiner.

USA Patriot Act of 2001

Authority and Purpose

The [USA Patriot Act \(USAPA\)](#) signed into law on October 26, 2001, established new and enhanced measures to prevent, detect, and prosecute money laundering and terrorism. The regulation implementing section 326 of the Act requires each financial institution to implement a written Customer Identification Program (CIP) that includes certain minimum requirements and is appropriate for its size and type of business.

Applicability and Exemptions

Section 326 influences the duties placed upon mortgage lenders and mortgage brokers. Specifically, the law requires financial institutions, such as banks to implement what is known as a Customer Identification Program.

Section 326 of the USAPA and the CIP Implementing regulations found at 31 CFR 103.121, et seq., apply to banks, credit unions, and a broad range of other financial entities such as securities dealers, insurance companies, and check-cashers. These “financial institutions” include real estate closing or settlement agents, and loan or finance companies, see 31 USC 5312(a)(2); as well as, any person or entity acting as their agent (i.e. through the delegation of authority, such as when a mortgage broker sells a loan to a mortgage lender).

Financial institutions are required to implement a risk-based CIP that includes four minimum requirements. The CIP must be in writing and implemented as an integral part of the Institution Secrecy Act and Anti-Money Laundering programs within the financial institution. Secondly, the CIP will apply to all customer “accounts”, but not infrequent or occasional interactions such as check cashing or the sale of money orders, 31 CFR 103.121(a)(1). Thirdly, the CIP will be triggered anytime an individual or entity “customer” opens a new account with the financial institution. Existing customers who open a “new” account probably will not trigger the CIP provisions if the financial institution can form a reasonable belief that it knows the identity of the customer, 31 CFR 103.121(a)(3). Lastly, financial institutions will not be required to verify the identity of account signatories.

There are four minimum requirements of a financial institutions’ CIP:

1. Create identity verification procedures,
2. Properly document the identity verification,
3. Provide notice to the customer, and
4. Compare verified identities with government lists.

Identity Verification Procedures

A financial institution’s CIP entails more than making a copy of a customer’s driver’s license. First, the customer must provide identifying information. Again, the financial institution must be able to form a “reasonable belief” that it knows the true identity of the customer, 31 CFR 103.121(b)(2). What is reasonable will vary based on many factors; such as, the types of accounts offered, the method of opening an account (face-to-face or electronically), and the type of information available at the time of the encounter.

A CIP must outline the identifying information that new customers must be required to provide prior to establishing the new account and at a minimum. For Individuals, this should include:

- The full name,

- Date of birth,
- Residential or business street address, and
- Identification number.

Identification number generally means the IRS “Taxpayer Identification Number” associated with the customer such as a social security number for individuals, See 31 CFR 103.121(b)(2)(I)(A).

Once the financial institution obtains customers identifying information, the next step must be to verify the information within a reasonable amount of time after the account is opened. Generally, verification will occur using documentary evidence; such as, driver’s licenses and passports for individuals. The authenticity of that document should be considered; any evidence of fraud or other indications that the document is not authentic; such as, document alterations or impersonations should be considered as well.

There is no absolute set of policies or procedures set forth under this law and no implementing regulations. A financial institution may undertake “non-documentary” methods of verification; such as, contacting the customer outside of the institution, checking references at other institutions or third-party sources, or using software or other technology related solutions as needed.

Identity Verification Documentation

Otherwise known as the “record-keeping requirement”, a financial institution must keep a minimum of identifying information (name, date of birth, address, and TIN) for five years after the account is closed. All other information obtained must be retained for five years after the record is created. This other information must contain at least the following:

- A description of any document used to verify the customer identity, noting the type of document; the document identification number; the place of issuance; the date of issuance; and the document expiration date;
- A description of the methods and results of non-documentary measures used to verify identity, if any; and
- A description of any substantive discrepancy between the information provided by the customer and that found in identifying methods with notations as to how the discrepancy was resolved.

31 CFR 103.121(b)(3). Section 326 and the implementing regulations do not require financial institutions to keep copies of documents used to verify identity, such as, the driver’s license or passport of the customer.

Notice to Customers

All CIP’s must include procedures for providing customers with adequate notice that the financial institution is requesting information from them in order to verify their identity. This notice may be given to the customer individually, or in a manner reasonably designated

to ensure that the customer is likely to view it (i.e. a sign in the lobby of the financial institution). In 31 CFR 103.121(b)(5), sample language is provided for financial institutions, as follows: IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

[Compare Verified Identities with Government Lists](#)

The fourth minimum requirement for the CIP program is to include procedures for determining whether a customer appears on any federal government list of known or suspected terrorist organizations. It is anticipated that most federal government agencies will utilize the Department of Treasury as the single source of information relating to the creation, compilation, and distribution of a "Section 326" list of suspected individuals for use by the financial institutions. Most large financial institutions implement automated software-based solutions to compare their customers with government lists.

[Examination Objectives](#)

- Determine that policies, procedures, and internal controls have been established and implemented, and evaluate their adequacy to provide reasonable assurance of compliance with the USAPA.

The [USA Patriot Act Exam Procedures](#) are intended to facilitate and assist the examiner.

[Gramm Leach Bliley Act](#)

[Authority and Purpose](#)

The [Gramm-Leach-Bliley Act \(GLBA\)](#), includes provisions to protect consumers' personal financial information held by financial institutions. There are three principal parts to the privacy requirements: the Financial Privacy Rule, Safeguards Rule, and pretexting provisions.

The GLBA gives authority to eight federal agencies and the states to administer and enforce the Financial Privacy Rule and the Safeguards Rule. These two regulations apply to "financial institutions," which include not only banks, securities firms, and insurance companies, but also, companies providing many other types of financial products and

services to consumers. Among these services are lending, brokering or servicing any type of consumer loan, transferring or safeguarding money, preparing individual tax returns, providing financial advice or credit counseling, providing residential real estate settlement services, collecting consumer debts and an array of other activities.

The Financial Privacy Rule governs the collection and disclosure of customers' personal financial information by financial institutions. It also applies to companies, whether they are financial institutions, who receive such information.

The Safeguards Rule requires all financial institutions to design, implement and maintain safeguards to protect customer information. The Safeguards Rule applies not only to financial institutions that collect information from their own customers, but also, to financial institutions "such as credit reporting agencies" that receive customer information from other financial institutions.

The pretexting provisions of the GLBA protect consumers from individuals and companies that obtain their personal financial information under false pretenses, a practice known as "pretexting."

Applicability and Exemptions

The law applies to banks, brokerage firms, tax preparation companies, insurance companies, consumer credit reporting agencies and a wide variety of other financial services firms. The primary focus of the GLBA is the protection of customer's personal financial information.

- **Section 6801** - Regulated organizations must insure the security and confidentiality of customer records and information.
- In **Section 6801** the law requires that access to all customer records be carefully controlled to prevent substantial harm or inconvenience to any customer.
- Any storage location that contains sensitive customer information must be protected by **strong access control** and **secure passwords**.
- In **Section 6801 (b)(1)** companies must ensure that email messages are kept secure and encrypted when being transmitted over a link.
- Sensitive customer information must be **protected** in case of physical disaster or technological failure.

Examination Objectives

- Insure the security and confidentiality of customer records and information.
- Determine that the MME has established an adequate written information security program.
- Assess the quality of the MME's compliance management policies and procedures for implementing the privacy and safeguard regulations; specifically, ensure

consistency between what the MME discloses to consumers in its notices about its policies and procedures and what the MME actually practices.

The [GLBA Exam Procedures](#) are intended to facilitate and assist the examiner.

Homeowners Protection Act

Authority and Purpose

The [Homeowners Protection Act of 1998](#) (HPA or PMI Cancellation Act, or Act) offers borrowers who secure loans with their primary homes three rights related to private mortgage insurance: disclosure, cancellation, and automatic termination. The Act requires lenders to inform mortgage borrowers of their rights under the Act. The Act also allows borrower-initiated cancellation of private mortgage insurance (PMI) and requires its termination by the lender when the borrower has accumulated a certain equity level in the home. HPA requires special disclosures to borrowers who have existing mortgages on the effective date of the HPA and to borrowers of loans carrying lender-paid PMI.

Applicability and Exemptions

The Act covers all lenders that grant "residential mortgages." A residential mortgage is defined as a mortgage, loan or other evidence of a security interest created with respect to a *single-family dwelling* that is the primary residence of the borrower. A single-family dwelling is a residence consisting of one family dwelling unit. The HPA also requires lenders that refinance or service home mortgages to comply with its terms. All the HPA's terms apply to servicers except those relating to loan closing.

The Act covers adjustable-rate and fixed-rate home mortgages on primary residences. It does not cover loans secured by second homes or multifamily homes. Most provisions of the Act do not apply to home loans made before July 29, 1999 or to mortgages where the lender pays the mortgage insurance. However, special disclosure rules do apply to loans in these categories.

Examination Objectives

- Determine that MMEs have established adequate policies, procedures, and internal controls to provide reasonable assurance of compliance with the Act.

Disclosures for Home Loans Closed on or After July 29, 1999

Disclosures Required at Loan Closing

Fixed-rate Mortgages — At loan closing for a fixed-rate mortgage, the lender must provide an initial amortization schedule with a written notice stating:

- the cancellation date, and

- the automatic termination date.

Cancellation Date - The cancellation date is the date the borrower may seek to cancel PMI and is based on the amortization schedule. The borrower may seek cancellation when the loan-to-value ratio reaches 80 percent of the original value of the property securing the loan. The disclosure must state that the borrower may accelerate the cancellation date by making additional payments that bring the loan-to-value ratio to 80 percent. However, the borrower's right to cancel PMI is limited by other rules, which are explained below.

Automatic Termination Date - The automatic termination date is the date the lender must terminate PMI, even if the borrower does not request termination. This date is based on the initial amortization schedule. A lender must terminate PMI when the loan-to-value ratio reaches 78 percent, provided the borrower is current on payments.

Adjustable-rate Mortgages — At loan closing for an adjustable-rate mortgage, the lender must provide borrowers with written notice explaining:

- their right to cancel PMI on the cancellation date, and
- the lender's duty to terminate PMI on the automatic termination date.

Cancellation Date - Congress recognized that at the closing of an adjustable-rate loan, a lender cannot adequately forecast the date on which the loan-to-value ratio will reach 80 percent. Thus, the notice must explain that (a) the borrower may seek to cancel PMI when the loan-to-value ratio reaches 80 percent, and (b) the lender will contact the borrower when the loan reaches that ratio. The disclosure must also state that the borrower may accelerate cancellation based on actual payments. However, as with fixed-rate mortgages, the borrower's right to cancel PMI is limited by other rules, which are explained below.

Automatic Termination Date - The lender must disclose that it will terminate PMI automatically when the loan-to-value ratio reaches 78 percent, provided the borrower is current on payments.

Disclosures Required After Loan Closing

There are five additional disclosure requirements after loan closing. The lender must:

1. *Provide an annual statement.* The lender must provide an annual statement detailing the borrower's cancellation and termination rights under the Act, including the address and telephone number of a contact person. The annual notice may be given as part of the annual escrow account statement required under the Real Estate Settlement Procedures Act (RESPA) or as part of the disclosure of interest payments required by the Internal Revenue Service. The Act permits the use of standardized forms for this purpose.

2. *Inform the borrower when an adjustable-rate loan reaches the cancellation date:* At the time of loan closing, it is difficult to predict when an adjustable-rate loan will reach its cancellation date. Thus, the lender must provide notice once the cancellation date has been reached. This rule applies only to borrowers with adjustable-rate mortgages because those with fixed-rate mortgages receive notice of their cancellation date in their initial disclosure documents.
3. *Inform the borrower when the loan has reached the cancellation date based on actual payments:* If a borrower accelerates repayment of the loan, the lender must notify the borrower when the loan reaches the cancellation date. This rule applies to both fixed- and adjustable-rate mortgages.
4. *Disclose the reasons for denying a borrower's cancellation request or not granting automatic termination:* A lender may deny a borrower's request to cancel PMI or refuse to terminate PMI. The rules vary for each action. When a lender denies a cancellation request, it must send written notice of the grounds for denial to the borrower. A lender may deny a borrower's written request for cancellation if the borrower lacks a "good payment history," fails to prove that the home's value has not depreciated or fails to certify that it is unencumbered by a subordinate lien. A lender may refuse to automatically terminate PMI if the borrower is not current on payments. When a lender denies a borrower's request to cancel PMI, it must send the notice of denial not later than 30 days after the borrower's request or the borrower's satisfaction of the lender's evidence or certification requirements, whichever is later. If a lender refuses to terminate PMI on the termination date, it must send the borrower written notice of the grounds for refusal not later than 30 days after the termination date.
5. *Provide notice to the borrower on cancellation or termination of PMI:* Borrowers must be notified by the lender of cancellation or termination of PMI not later than 30 days after it occurs. The mortgage insurer then has 30 days to return any unearned premiums to the lender, who then has 45 days to return them to the borrower.

Disclosures for Loans with Lender-paid PMI

Lender-paid PMI is not subject to any cancellation or termination rules of the HPA, and the disclosure requirements vary. Before or on the date of loan closing, the lender must provide the borrower written notice detailing the differences between lender- and borrower-paid PMI. The lender must also send written notice to the borrower not later than 30 days from the date PMI would have been terminated under the HPA had it been borrower paid. This notice must include a statement that the borrower may wish to review financing choices that could eliminate the need for lender-paid PMI.

Cancellation of PMI

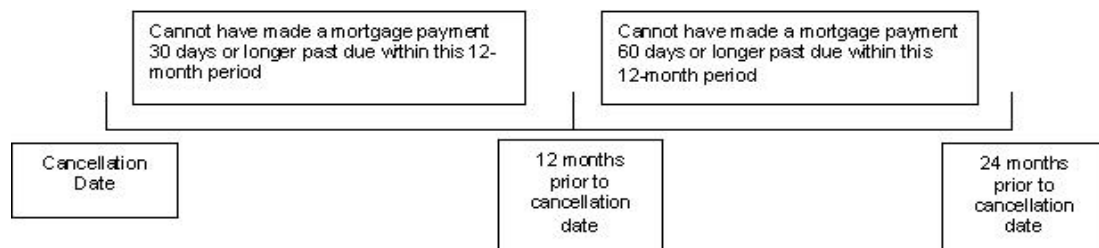
A lender must cancel a borrower's PMI when all of the following occur:

- The borrower's loan-to-value ratio reaches 80 percent;
- The borrower makes a written request;
- The borrower provides, upon the lender's request, information showing that the property has not declined in value and is not encumbered by any subordinate lien; and
- The borrower has a good payment history.

Upon receiving a borrower's written request for cancellation, a lender may require the borrower to prove that the property securing the mortgage has not declined in value and is unencumbered by any subordinate lien. If the property has depreciated or is subject to a subordinate lien, the Act does not compel the lender to cancel the PMI. In addition, the borrower must have a "good payment history," meaning he/she has neither:

- Made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date, nor
- Made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date. (See diagram)

Good Payment History



Termination of PMI

A lender must automatically terminate PMI when all of the following occur:

- The loan-to-value ratio reaches 78 percent; and
- The borrower is current on the payments required by the terms of the loan.

Automatic termination differs from cancellation in two important ways. First, the borrower need not have a good payment history; the payments must only be "current." Second, the lender may not consider whether the property has depreciated. The HPA does not define the term "current;" therefore, it is left to the lender to determine how to track whether a loan is current as of the termination date. If the borrower's loan is not current on the termination date, as soon as the borrower is current, a lender must terminate PMI.

Regardless of the loan-to-value ratio, the lender must terminate PMI on the first day of the month after the mid-point of the loan's amortization period if that loan is current.

The [Home Ownership Protection Act Exam Procedures](#) are intended to facilitate and assist the examiner.

Regulatory Compliance Component Rating

1	A rating of “1” indicates that compliance with federal laws and regulations is strong.
	<ul style="list-style-type: none"> • Management has strong internal controls and monitoring for regulatory compliance. • Policies are in writing, determined to be effective, and operations are tested for compliance. • Management adheres to its regulatory compliance policies and plans. • There is no evidence of regulatory compliance violations or practices resulting in repeat violations. • Violations are promptly corrected by management. As a result, the institution gives no cause for supervisory concern. • Management is pro-active in addressing areas of weakness.
2	A rating of “2” indicates that compliance with federal laws and regulations is satisfactory.
	<ul style="list-style-type: none"> • Management has satisfactory internal controls and monitoring for regulatory compliance. • Management generally adheres to its regulatory compliance policies and plans. • There is no evidence of regulatory compliance violations or practices resulting in well-defined patterns of repeat violations. • Some areas of weakness may be noted but are not material in nature and are easily corrected.
3	A rating of “3” indicates that compliance with federal laws and regulations needs improvement.
	<ul style="list-style-type: none"> • Management has less than satisfactory internal controls and monitoring for regulatory compliance. • Management often ignores its regulatory compliance policies and plans. • Regulatory compliance violations may be numerous. • Previously identified practices resulting in violations may remain uncorrected. The situation presents an undue risk to the institution’s operations if not corrected.
4	A rating of “4” indicates that compliance with federal laws and regulations is deficient.
	<ul style="list-style-type: none"> • Management has a less than satisfactory level of internal control and monitoring in place for regulatory compliance. • Material areas of operations do not have written policies and procedures or have ineffective policies and procedures. • Numerous regulatory compliance violations are present. • Often practices resulting in violations cited at previous examinations remain uncorrected. • Immediate actions must be taken to preserve the viability of the institution.
5	A rating of “5” indicates that compliance with federal laws and regulations is critically deficient.
	<ul style="list-style-type: none"> • Management has poor or no internal controls and monitoring in place for regulatory compliance.

- No regulatory compliance plans and policies are present. that compliance with federal laws and regulations is critically deficient. Management is substantially in noncompliance with the consumer laws and regulations.
- Management has demonstrated its unwillingness or inability to operate within the scope of consumer laws and regulations.
- Repeat violations are present. that compliance with federal laws and regulations is critically deficient. The risks present are to the degree that the institution may cease operations.

Dodd-Frank Wall Street Reform and Consumer Protection Act

On July 21, 2010, the Dodd-Frank Act was signed into law. The Act created the Consumer Financial Protection Bureau (CFPB) to provide a single point of accountability for enforcing federal consumer financial laws and protecting consumers in the financial marketplace. Before, that responsibility was divided among several federal agencies. Below are the federal consumer financial laws under the scope of the CFPB:

- [CFPB Code of Federal Regulations](#)
- [CFPB eRegulations \(include official interpretations\)](#)

Examiners should use the FFIEC and CFPB Rate Spread Calculators when determining Higher-Priced Mortgage Loans (HPMLs). Rate spreads need to be calculated differently depending on the final action date of the loan:

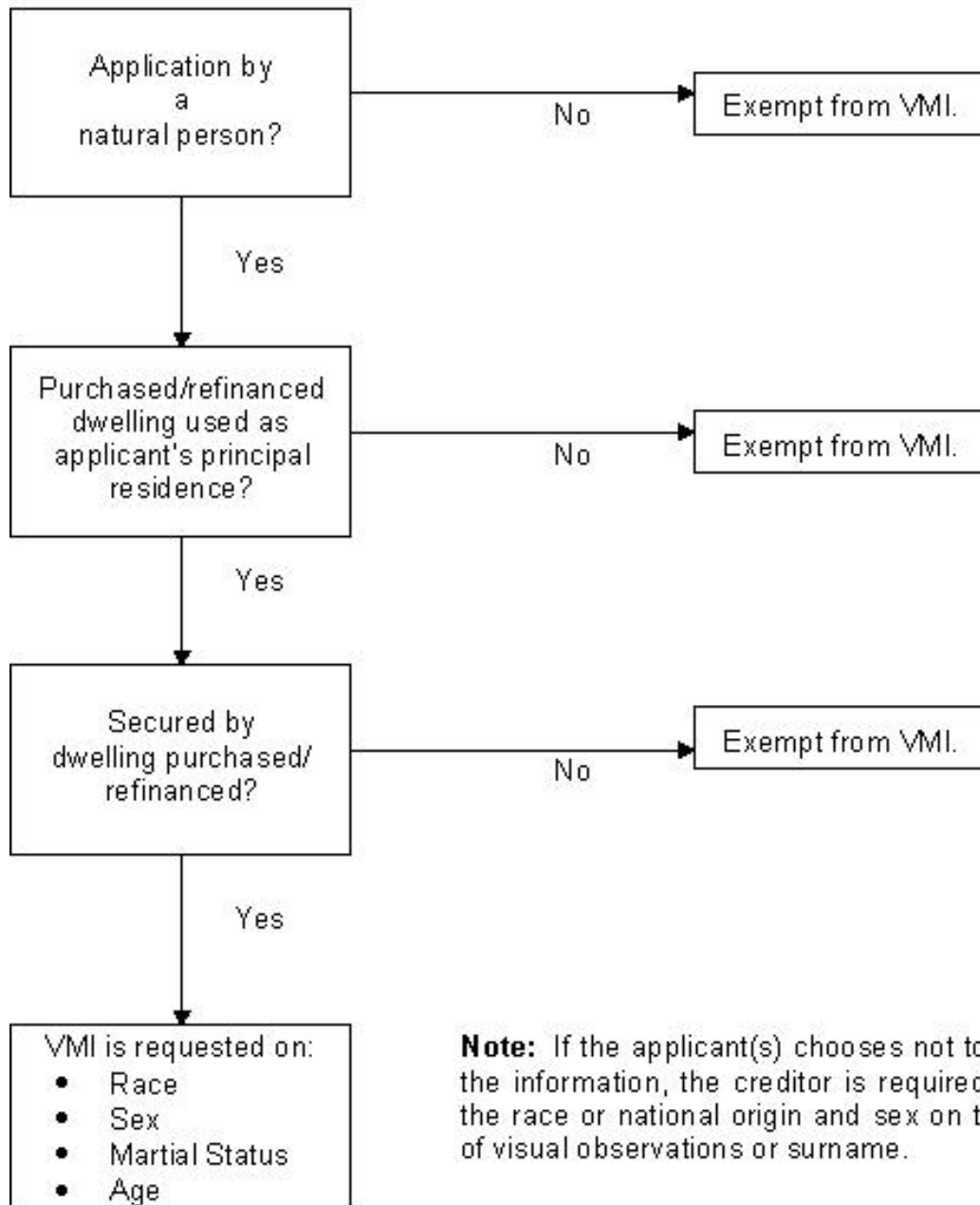
- [Calculator](#) for loans with a final action taken **prior to December 31, 2017**.
- [Calculator](#) for loans with a final action taken **on or after January 1, 2018**.

Regulation Z § 1026.4 Finance Charge Matrix

- Refer to the Finance Charge Chart contained with the [CFPB's Truth in Lending Act Exam Procedures](#) (See Page 15).

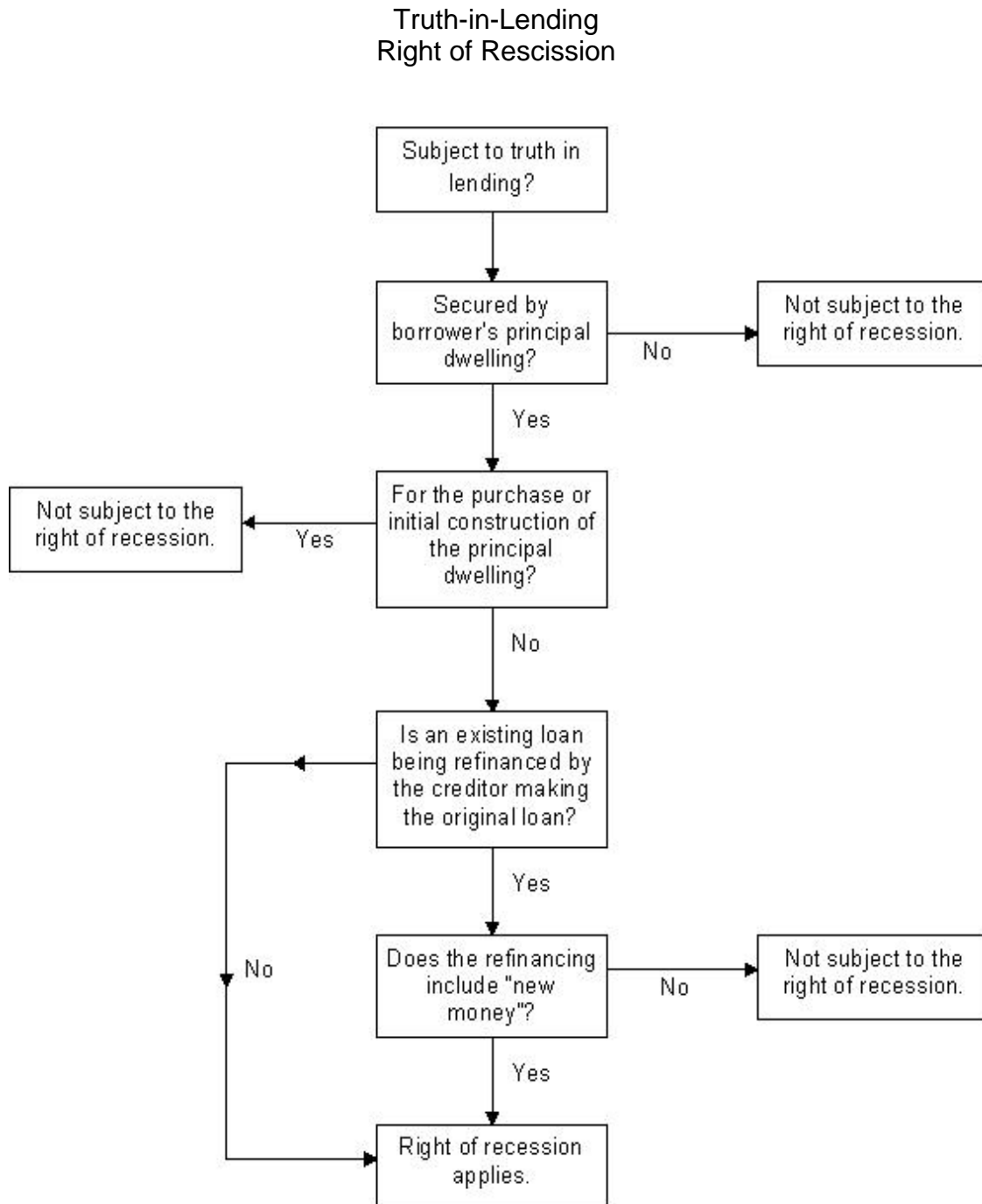
Flow Chart 1 – Equal Credit Opportunity Act Collection of Voluntary Monitoring Information

Equal Credit Opportunity
Collection of Voluntary Monitoring Information (VMI)



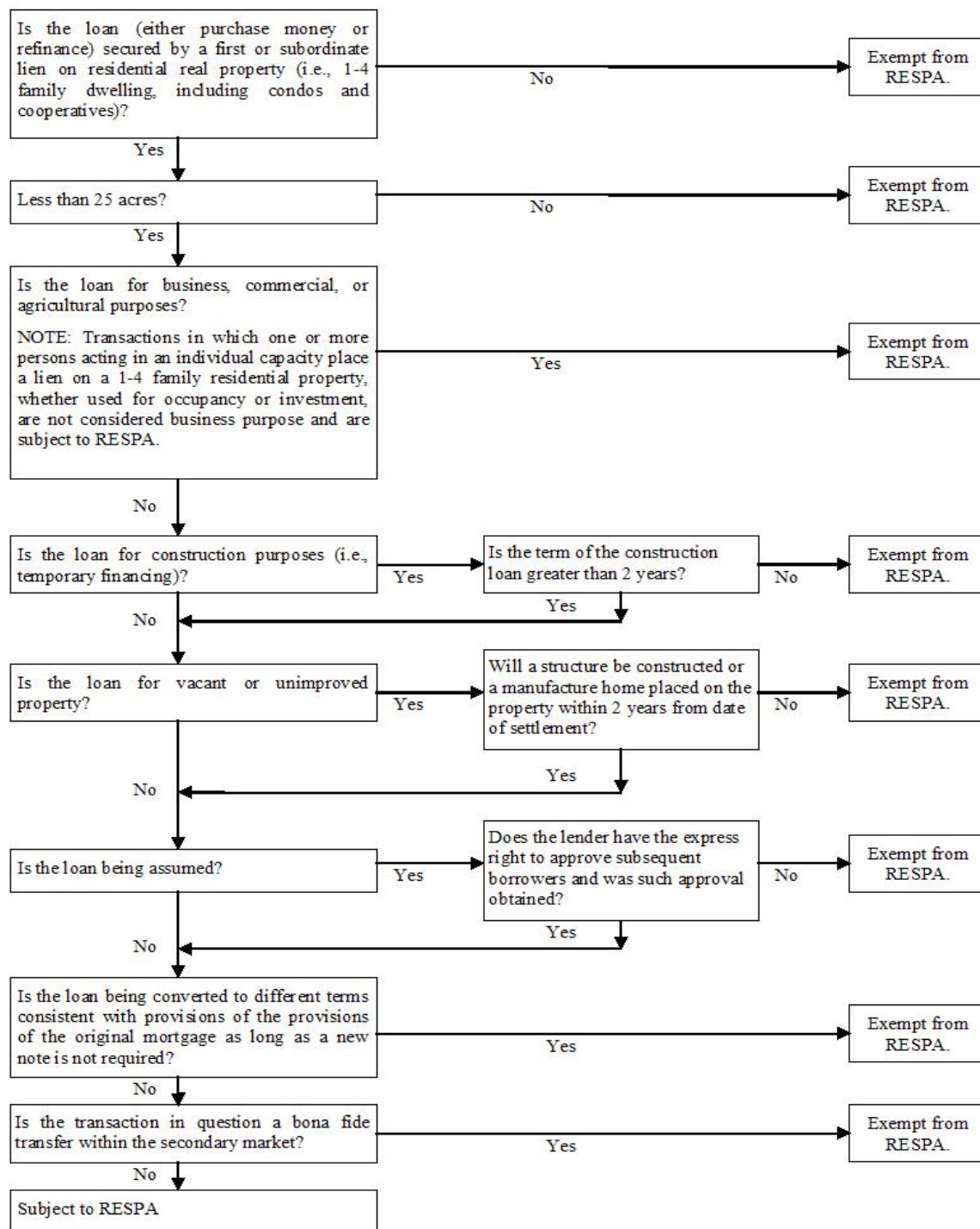
Note: If the applicant(s) chooses not to provide the information, the creditor is required to note the race or national origin and sex on the basis of visual observations or surname.

Flow Chart 2 – Truth in Lending Right of Rescission



Flow Chart 3 – Real Estate Settlement Procedures Act

REAL ESTATE SETTLEMENT PROCEDURES ACT



Loan Servicing

Introduction

Loan servicing represents the numerous activities involved in the administration of a mortgage account subsequent to origination, including the collection of payments from mortgage borrowers, administration of escrow accounts and payment of taxes and insurance premiums, investor remittance and reporting, maintaining contact with consumers, and loss mitigation. Originating MMEs will often sell mortgage servicing rights (MSR) to another MME that has the appropriate functions to collect payments from consumers; alternatively, some originating MMEs will “bifurcate” the mortgage and retain the servicing to maintain the customer relationship.

A mortgage servicer collects payments from borrowers and then remits those payments, usually on a monthly basis through Automated Clearing House (ACH), to the mortgage owners or investors of record. If the mortgage is a portfolio loan being held on the books of a lending institution, the servicer will forward those payments to this institution. If the mortgage has been pooled and securitized in mortgage-backed securities (MBS), then the servicer forwards the payments to the pool’s trustee or master servicer, as the trust or MBS pool is the owner of record of the mortgage loans.

Escrow

Borrowers may elect to have real estate taxes, insurance premiums and HOA dues and assessments escrowed by their servicer for payment when due. Escrow accounts have historically been a source of borrower confusion as well as servicer error and malfeasance. Servicer administration of escrow accounts is governed by Regulation X of RESPA and establishes limits for amounts that can be collected by the servicer based on borrower monthly payments and projected disbursements during the applicable escrow account computation year. Regulation X also details requirements for frequency of escrow account analysis, treatment of escrow shortages or overages, borrower refunds, servicer reporting and recordkeeping.

Throughout the life of an escrow account, servicers may charge borrowers a monthly sum equal to one-twelfth (1/12) of the total annual escrow payments the servicer projects will be paid from the account. Servicers may add a cushion not greater than two months’ (1/6) of the estimated total payments from the account in any given computation year.

Per RESPA, servicers must conduct an annual escrow account analysis to determine whether a shortage or overage exists, which special rules governing each potential scenario. Also, per RESPA, servicers must submit to borrowers an annual statement for each escrow account within thirty (30) days of the completion of the analysis.

For first-lien Higher-Priced Mortgage Loans as defined under Regulation Z of TILA, and subject to certain exceptions, an escrow account must be established prior to

consummation of the loan and maintained for at least five years, at which point the escrow may be canceled at the request of the borrower.

Loss Mitigation: Workouts and Liquidation

“Loss mitigation” broadly describes the workout or liquidation options a servicer can utilize to minimize losses from a distressed mortgage loan. The phrase is shorthand for helping borrowers avoid foreclosure, but a loss mitigation toolbox also includes liquidation options such as short sales, deed-in-lieu of foreclosure or foreclosure. From a consumer protection standpoint, loss mitigation options are generally categorized as “home retention” vs “liquidation”.

A servicer’s obligation to offer loss mitigation options to a delinquent or distressed borrower is generally determined by requirements imposed by the owner, insurer or guarantor of the loan. Typically, no loss mitigation options other than foreclosure are addressed in the mortgage contract (promissory note and security instrument). Loans that are owned or guaranteed by a government entity or government-sponsored entity are governed by very specific loss mitigation rules as outlined in the respective servicing guides or mortgagee letters. “Non-agency” loans or loans without a government guarantee or insurance, or that were sold into private-label securities, may have little or no guidance regarding such loss mitigation activities, depending on when the loan was originated.

The January 10, 2014 implementation of the CFPB’s RESPA Reg X amendments established a consistent framework for servicer recordkeeping, facilitating better borrower communication, and providing a uniform set of procedures for evaluating and processing loss mitigation applications. Additional amendments to Reg X effective in October 2017 implemented certain rules concerning borrowers in loss mitigation at the time of a servicing transfer, required communication and notice of a completed application, and certain short-term loss mitigation options while an application is incomplete.

Servicing Examinations

Servicing exams are a priority to state mortgage regulators given the rise of non-depository mortgage servicers and the potential risks posed to consumers. This mortgage servicing module and exam procedures are incorporated into the core portion of the MMC exam process.

The MMC has responsibility for reviewing and enforcing compliance by Multistate Mortgage Entities (MMEs) with certain consumer protection regulations, the state’s Mortgage Lending Act, and Federal lending laws and regulations, as well as any other applicable laws and regulations. While compliance with regulations is only one aspect of a MME’s operations, the presence of violations and the absence of an effective compliance program reflect adversely on management and the board of directors. These items may be indicative of inadequacies in other areas of management responsibility. Failure to comply with regulations or to possess an adequate internal control process that

promotes compliance can also expose a MME, its directors, and officers to costly civil liability, litigation, and a loss of customer goodwill. Any of these may lead to reputational risk resulting in significant negative outcomes to the MME. Additionally, noncompliance with regulations may subject the MME to enforcement actions by the state or a Federal or State agency responsible for enforcement.

Even though most areas of examination activity involve some aspects of compliance, this module is limited to those regulations which lend themselves to a stand-alone examination process. To accomplish a stand-alone examination process, samples are periodically drawn and tested to measure a MME's compliance with regulations. The degree and depth of sampling should ordinarily be based on risk determined to be present. This risk may be minimal if policies, procedures, and internal controls are adequate and previous examinations or internal reviews have not disclosed substantive violations. However, if policies, procedures and internal controls are inadequate and/or substantive violations were previously detected, the examiner-in-charge (EIC) must ensure that sufficient testing is conducted to adequately evaluate the compliance area being tested. If material violations are identified in areas with limited examination samples, additional sampling may be necessary to determine the cause of the problem (e.g., a pattern or practice, or an isolated error). In addition, testing should include a review of the extent and types of noncompliance disclosed in previous examination activity and the adequacy of corrective action taken by the MME since the previous examination. More specific sampling techniques are described elsewhere in this section.

Scoping

Prior to notifying a MME about an examination, it is always recommended that examiners pre-scope the examination using tools at their disposal. These tools include but are not limited to reviewing any internal databases, the MME's NMLS record, complaints including any available databases such as the CFPB complaint portal and/or the FTC Consumer Sentinel, the MME's website, general Internet search engines (e.g. Google), social media, litigation, and SEC filings (if applicable). The information available on the MME's mortgage call reports filed via the NMLS allows an examiner to identify numerous characteristics of the MME's servicing portfolio such as the number of loans being serviced, in a delinquency status, in foreclosure, or being reviewed for a modification. Additionally, the MCRs also reveal if the servicer is engaged in sub-servicing for others or servicing loans in which they wholly own or own the mortgage servicing rights. Within the NMLS examiners are strongly encouraged to view the MCR data available through analytics. The analytics tool allows examiners to look for trends, isolate sections of the MCR for closer review, run reports, and analyze MME loan and financial data in comparison to peer groups.

Another tool through the MCR is the Servicer Examiner Report, a summary drawn from MCR data showing a variety of financial, operational and performance data for the servicer and period selected.

A servicing exam begins by sending an exam notification letter to an institution along with a request for the MME to complete an Information Request (i.e. examination questionnaire) and provide a list of all loans serviced during the scope period of the examination. From the loan list the examiner should request a variety of loans during the scope period which would include loans currently being serviced and loans that were paid off or foreclosed upon. Before picking a sample of loans to examine, the EIC should review any existing complaints or litigation. If complaints or litigation exists for certain categories of loans, such categories should represent a higher percentage of the loan sample.

The loan list and MCR data can be leveraged to identify loans with criteria that an examiner may want to focus more on including loan boarding, PMI, escrow, force placed insurance, adjustable rates, late payments, loan modifications, bankruptcies, and foreclosures. The selection of loans for use should be based, to a degree, on what issues the MME is mostly dealing with in a given period. For example, if a MME is processing a heavy number of foreclosures, examiners should employ some target specificity and review loans near foreclosure. The size of the loan sample should reflect the size and complexity of the MME.

Loan Sampling

The origination chapter of this manual contains additional information on Compliance Sampling Techniques and an explanation on judgmental and statistical sampling. The MMC generally recommend the use of judgmental sampling as it accommodates a risk-based approach that allows examiners to target areas for testing based upon what is perceived as risk. Factors considered when making mortgage servicer sample selections may include the following loan characteristics:

- **Status.** The sample should include loans from the following categories: current loans, delinquent loans 30 - 90 days, delinquent loans over 90 days, loans in different stages of the loss mitigation process, loans in the foreclosure process, completed foreclosures, and loans involved in consumer complaints.
- **Loan type.** The sample should include a blend of all types of loans when applicable (FHA, VA, USDA/RHS, conventional, QM vs. non-QM).
- **Interest Rate.** The sample should include both fixed and adjustable rate loans when applicable.
- **Servicer Role/MSR Ownership type.** The sample should include loans the licensee sub-services for others as well as loans where the licensee serves as the master servicer. If the licensee utilizes the services of multiple sub-servicers or acts as a sub-servicer for multiple master servicers, the sample should include loans from each client when feasible.

The number of loans reviewed from each category may be based on factors such as the makeup of the MME's portfolio, the number and type of consumer complaints, or violations discovered in previous examinations.

Once examiners have received the loan files in their sample, they will review each loan for compliance with federal and applicable state regulations. Examiners will utilize any tools such as line sheets for guidance in reviewing the loans for compliance requirements.

The [MMC Servicing Worksheet](#) is an additional tool that examiners may use as part of this process.

Servicing Exam Procedures

Given the now apparent issues with procedural policies that some of the largest servicers have demonstrated, it is important that servicing exams not only focus on loan level review, but also the policies and procedures that management has in place for performing the servicing function. Examiners should foster an open communication with management about the loan servicing procedures. Examiners should survey the actual servicing facility and observe employees in each area (collections, loss mitigation, foreclosures, bankruptcy, etc.), in order to ensure that the MME has adequately trained employees.

Additionally, examiners should request that management verbally communicate the MME's policies and procedures even if the examiner already received them, in order to ensure that management is very familiar with the MME's own plans for maintaining a successful operation.

Below is a list of the recommended list of operations that should be reviewed during a full-scope servicing examination. The MMC has created a workbook of examination procedures for each of the areas listed below. This workbook closely mirrors the servicing examination procedures that have been published by the CFPB.

- Servicing and Loan Ownership Transfers
- Payment Processing and Account Maintenance
- Error Resolution, Consumer Inquiries, and Complaints
- Maintenance of Escrow Accounts and Insurance Products
- Consumer Reporting
- Information Sharing and Privacy
- Collections and Accounts in Bankruptcy
- Loss Mitigation, Early Intervention, and Continuity of Contact
- Foreclosures

The [MMC Mortgage Servicing Exam Procedures](#) are intended to facilitate and assist the examiner.

State and Federal Regulations

Examiners must consider federal laws when assessing a MME's mortgage servicing activities for compliance with certain requirements of Federal consumer financial laws which include:

- Electronic Fund Transfer Act (EFTA) – Regulation E
- Equal Credit Opportunity Act (ECOA) – Regulation B
- Fair Credit Reporting Act (FCRA) – Regulation V
- Fair Debt Collection Practices Act (FDCPA) – Regulation F
- Gramm-Leach-Bliley Act (GLBA) – Regulation P
- Homeowners Protection Act (HPA)
- Real Estate Settlement Procedures Act (RESPA) – Regulation X
- Servicemembers Civil Relief Act (SCRA)
- Truth in Lending Act (TILA) – Regulation Z

In general, examiners should access applicable state laws when appropriate. For mortgage operations in most states, MMEs must comply with a state mortgage lending and/or servicing law, a state predatory lending law, a state mortgage fraud act, the state's SAFE Act, and several other possible state laws which may dictate the process servicers must follow during foreclosures.

Electronic Fund Transfer Act

Authority and Purpose

The [Electronic Fund Transfer Act \(EFTA\)](#) (15 U.S.C. 1693 *et seq.*) of 1978 is intended to protect individual consumers engaging in electronic fund transfers (EFTs) and remittance transfers. These services include:

- transfers through automated teller machines (ATMs);
- point-of-sale (POS) terminals;
- automated clearinghouse (ACH) systems;
- telephone bill-payment plans in which periodic or recurring transfers are contemplated;
- remote banking programs; and
- remittance transfers.

The EFTA is implemented through Regulation E, which includes official interpretations.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rule making authority under the EFTA from the Board of Governors of the Federal Reserve to the Consumer Financial Protection Bureau (CFPB). In December 2011, the CFPB restated the Board's implementing Regulation E at 12 CFR Part 1005 (76 Fed. Reg. 81020) (December 27, 2011).

Applicability and Exemptions

The EFTA and its implementing regulation, Regulation E, impose requirements if servicers within the scope of coverage obtain electronic payments from borrowers.

Examination Procedures

Examination procedures related to EFTA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Payment Processing and Account Maintenance
 - [Regulation E, 12 CFR 1005](#)
 - [CFPB Bulletin 2015-06 \(November 23, 2015\)](#)

The CFPB has [EFTA Examination Procedures](#) which is another tool for examiners.

Equal Credit Opportunity Act

Authority and Purpose

The [Equal Credit Opportunity Act \(ECOA\)](#), which is implemented by Regulation B, applies to all creditors. When originally enacted, ECOA gave the Federal Reserve Board responsibility for prescribing the implementing regulation. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred this authority to the Consumer Financial Protection Bureau (CFPB or Bureau). The Dodd-Frank Act granted rule-making authority under ECOA to the CFPB and, with respect to entities within its jurisdiction, granted authority to the CFPB to supervise for and enforce compliance with ECOA and its implementing regulations.¹ In December 2011, the CFPB restated the Federal Reserve's implementing regulation at 12 CFR Part 1002 (76 Fed. Reg. 79442) (December 21, 2011).

The statute provides that its purpose is to require financial MMEs and other firms engaged in the extension of credit to “make credit equally available to all creditworthy customers without regard to sex or marital status.” Moreover, the statute makes it unlawful for “any creditor to discriminate against any applicant with respect to any aspect of a credit transaction (1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract); (2) because all or part of the applicant's income derives from any public assistance program; or (3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act.” The ECOA has two principal theories of liability: disparate treatment and disparate impact. Disparate treatment occurs when a creditor treats an applicant differently based on a prohibited basis such as race or national origin. Disparate impact occurs when a creditor employs facially neutral policies or practices that have an adverse effect or impact on a member of a protected class unless it meets a legitimate business need that cannot reasonably be achieved by means that are less disparate in their impact.

ECOA was enacted through an amendment (which added Title VII) to the Consumer Credit Protection Act. The CFPB codification of ECOA begins with §1002.1 et seq and it is also referred to as Regulation B.

The purpose of ECOA and the regulation is to promote the availability of credit to all creditworthy applicants without regard to:

- Race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract);
- The fact that all or part of the applicant's income derives from a public assistance program; or
- The fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

ECOA prohibits creditor practices that discriminate on the basis of any of these factors. It also requires creditors to notify applicants of action taken on their applications; report credit history in the names of both spouses on an account, if applicable; retain records of credit applications; collect information about the applicant's race and other personal characteristics in the applications for certain dwelling-related loans; and provide applicants with copies of appraisal reports used in connection with credit transactions.

Examination Objectives

- Determine that policies, procedures and internal controls relating to ECOA have been established and evaluate their adequacy to provide reasonable assurance of compliance.
- Evaluate adherence to established policies, procedures, and internal control guidelines.

Applicability and Exemptions

ECOA and its implementing Regulation B apply to those servicers that are creditors, such as those who participate in a credit decision about whether to approve a mortgage loan modification. The statute makes it unlawful to discriminate against any borrower with respect to any aspect of a credit transaction:

- On the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);
- Because all or part of the applicant's income derives from any public assistance program; or
- Because the applicant has in good faith exercised any right under the Consumer Credit Protection Act

Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce ECOA over MMEs. Generally, Regulation B alters, affects, or preempts only those State laws that are inconsistent with ECOA and the regulation, and then only to the extent of the inconsistency. A State law is not inconsistent if it is more protective of the applicant.

Examination Procedures

Examination procedures related to ECOA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Loss Mitigation, Early Intervention, and Continuity of Contact
 - [Regulation B, 12 CFR 1002.14](#)

Additional tools for examiners include the CFPB [ECOA Examination Procedures](#). States conducting fair lending reviews can refer to the [CFPB ECOA Baseline Review](#) and the [FFIEC Interagency Fair Lending Examination Procedures](#).

Fair Credit Reporting Act

Authority and Purpose

The [Fair Credit Reporting Act \(FCRA\)](#) deals with the rights of consumers in relation to their credit reports and the obligations of credit reporting agencies and the businesses that provide information to them. The FCRA has been revised numerous times since it took effect in 1971, notably by passage of the Consumer Credit Reporting Reform Act of 1996, the Gramm-Leach-Bliley Act of 1999, and the Fair and Accurate Credit Transactions Act of 2003 (FACT Act).

The FACT Act created many new responsibilities for consumer reporting agencies and users of consumer reports. It contained many new consumer disclosure requirements as well as provisions to address identity theft. In addition, it provided free annual consumer report rights for consumers and improved access to consumer report information to help increase the accuracy of data in the consumer reporting system.

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which granted rule-making authority under FCRA (except for Section 615(e) (red flag guidelines and regulation) and Section 628 (disposal of records)) to the Consumer Financial Protection Bureau (CFPB). On December 21, 2011, the CFPB restated FCRA regulations under its authority at 12 CFR Part 1022 (76 Fed. Reg. 79308).

Applicability and Exemptions

The FCRA and its implementing regulation, Regulation V, impose requirements on servicers regarding the accuracy and integrity of information that they furnish to consumer reporting agencies. Additionally, the FCRA and Regulation V impose requirements on furnishers to investigate disputes concerning the accuracy of any information contained in a consumer report related to the account or other relationship the furnisher has or had with the consumer. The FCRA also limits certain information sharing between company affiliates.

The FCRA applies to information obtained primarily for purposes of consumer lending and other consumer transactions. Thus, the consumer report user obligations of FCRA apply to MMEs only with respect to credit transactions for personal, family, or household purposes. The obligation of MMEs to comply with FCRA for consumer credit transactions is reflected applicable state laws and the multistate mortgage examination protocol and agreement.

Examination Objectives

- Determine whether the MME makes the disclosures required of users of consumer reports when adverse action is based wholly or partly on information obtained from outside sources.
- Determine whether the MME's activities make it subject to the consumer reporting agency requirements of the FCRA, and, if so, ensure it is in compliance with those requirements.

Examination Procedures

Examination procedures related to FCRA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Consumer Reporting
 - [Regulation V, 12 CFR 1022.40-43](#) and [15 U.S.C. 1681s-2](#)
 - [CFPB Bulletin 2013-09 \(September 4, 2013\)](#)
 - [CFPB Bulletin 2014-01 \(February 27, 2014\)](#)
 - [CFPB Bulletin 2016-01 \(February 3, 2016\)](#)
- Information Sharing and Privacy
 - [Regulation V, 12 CFR 1022.21](#)

The CFPB has [FCRA Examination Procedures](#) which is another tool for examiners.

Fair Debt Collection Practices Act

Authority and Purpose

The [Fair Debt Collection Practices Act \(FDCPA\)](#) (15 U.S.C. 1692 et seq.), which became effective March 20, 1978, was designed to eliminate abusive, deceptive, and unfair debt collection practices. In addition, the federal law (15 U.S.C. 1692 et seq.) protects reputable debt collectors from unfair competition and encourages consistent state action to protect consumers from abuses in debt collection. The Dodd-Frank Act granted rulemaking authority under the FDCPA to the Consumer Financial Protection Bureau (CFPB) and, with respect to entities under its jurisdiction, granted authority to the CFPB to supervise for and enforce compliance with the FDCPA.

Applicability and Exemptions

The FDCPA governs collection activities and prohibits deceptive, unfair, and abusive collection practices. The FDCPA applies to entities that constitute “debt collectors” under the Act, which generally includes: (1) third parties such as servicers, collection agencies, debt buyers, and collection attorneys that collect debts on behalf of lenders if they obtain the debt at a time when it is already in default; and (2) lenders collecting their own debts using an assumed name. The FDCPA applies to debts incurred or allegedly incurred primarily for the consumer’s personal, family or household purposes. It does not apply to the collection of corporate debt or to debt owed for business or agricultural purposes.

Under FDCPA, a “debt collector” is defined as any person who regularly collects, or attempts to collect, consumer debts for another person or MME or uses some name other than its own when collecting its own consumer debts. That definition would include, for example, a MME that regularly collects debts for an unrelated MME. This includes reciprocal service arrangements where one MME solicits the help of another in collecting a defaulted debt from a customer who has moved.

A MME is not a debt collector under the FDCPA when it collects:

- Another’s debts in isolated instances.
- Its own debts it originated under its own name.
- Debts it originated and then sold, but continues to service (for example, mortgage and student loans).
- Debts that were not in default when they were obtained.
- Debts that were obtained as security for a commercial credit transaction (for example, accounts receivable financing).
- Debts incidental to a bona fide fiduciary relationship or escrow arrangement (for example, a debt held in the MME’s trust department or mortgage loan escrow for taxes and insurance).
- Debts regularly for other institutions to which it is related by common ownership or corporate control.

Debt collectors that are not covered also include:

- Officers or employees of an institution who collect debts owed to the MME in the MME’s name.
- Legal process servers.

Under the FDCPA, a “debt collector” is defined as any person who regularly collects, or attempts to collect, consumer debts for another person or MME, or uses interstate commerce or the mail in a business the principal purpose of which is consumer debt collection or uses some name other than its own when collecting its own consumer debts, with certain exceptions. The definition includes, for example, a MME that regularly collects debts for an unrelated MME.

The debt collector definition has an exception that frequently applies to mortgage servicing: a MME is not a debt collector under the FDCPA when it collects debts that were **not** in default when they were obtained by the servicer. Thus, a servicer that purchases the servicing rights for a portfolio of loans will be a debt collector to the extent it meets the general definition of debt collector only for loans that were in “default” when the servicer obtained them.

Examination Procedures

Examination procedures related to FDCPA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Servicing and Loan Ownership Transfers
 - [15 U.S.C. 1692g\(a\) and \(b\)](#)
- Collections and Accounts in Bankruptcy
 - [15 U.S.C. 1692](#)
 - [CFPB Bulletin 2013-07 \(July 10, 2013\)](#)

The CFPB has [FDCPA Examination Procedures](#) which is another tool for examiners.

Gramm-Leach-Bliley Act

Authority and Purpose

Title V, Subtitle A of the [Gramm-Leach-Bliley Act \(GLBA\)](#) governs the treatment of nonpublic personal information about consumers by financial institutions. Section 502 of the Subtitle, subject to certain exceptions, prohibits a financial institution from disclosing nonpublic personal information about a consumer to nonaffiliated third parties, unless (i) the institution satisfies various notice and opt-out requirements, and (ii) the consumer has not elected to opt out of the disclosure. Section 503 requires the institution to provide notice of its privacy policies and practices to its customers. Section 504 authorizes the issuance of regulations to implement these provisions.

In 2000, the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the former Office of Thrift Supervision (OTS), published regulations implementing provisions of GLBA governing the treatment of nonpublic personal information about consumers by financial institutions.

Title X of the Dodd-Frank Act Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) granted rulemaking authority for most provisions of Subtitle A of Title V of GLBA to the Consumer Financial Protection Bureau (CFPB) with respect to financial institutions and other entities subject to the CFPB’s jurisdiction, except securities and futures-related companies and certain motor vehicle dealers. The Dodd-Frank Act also granted authority to the CFPB to examine and enforce compliance with these statutory provisions and their implementing regulations with respect to entities under CFPB

jurisdiction. In December 2011 the CFPB recodified in Regulation P, 12 CFR Part 1016, the implementing regulations that were previously issued by the Board, the FDIC, the Federal Trade Commission (FTC), the NCUA, the OCC, and the former OTS.

Applicability and Exemptions

The Gramm-Leach-Bliley Act (GLBA) requires servicers within the scope of coverage to provide privacy notices and limit information sharing in particular ways.

A *financial institution* is any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities, as determined by Section 4(k) of the Bank Holding Company Act of 1956. Financial institutions can include banks, securities brokers and dealers, insurance underwriters and agents, finance companies, mortgage bankers, and travel agents.

Examination Procedures

Examination procedures related to GLBA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Information Sharing and Privacy
 - GLBA, [12 CFR 1016.4 and .5](#)

The CFPB has [GLBA Privacy of Consumer Financial Information Examination Procedures](#) which is another tool for examiners.

Homeowners Protection Act

Authority and Purpose

The [Homeowners Protection Act of 1998](#) (HPA or PMI Cancellation Act, or Act) was signed into law on July 29, 1998, became effective on July 29, 1999, and was later amended on Dec. 27, 2000, to provide technical corrections and clarification. The “PMI Cancellation Act” addresses homeowners’ difficulties in canceling private mortgage insurance (PMI) coverage. It establishes provisions for canceling and terminating PMI, sets disclosure and notification requirements, and requires the return of unearned premiums.

The Dodd-Frank Act granted authority to the Consumer Financial Protection Bureau (CFPB) to supervise for and enforce compliance with the Homeowners Protection Act with respect to entities within its jurisdiction.

PMI is insurance that protects lenders from the risk of default and foreclosure. PMI allows prospective buyers who cannot, or choose not to, provide significant down payments to obtain mortgage financing at affordable rates. It is used extensively to facilitate “high-ratio” loans (generally, loans in which the loan to value (LTV) ratio exceeds 80 percent).

With PMI, the lender can recover costs associated with the resale of foreclosed property, and accrued interest payments or fixed costs, such as taxes or insurance policies, paid prior to resale.

Excessive PMI coverage provides little extra protection for a lender and does not benefit the borrower. In some instances, homeowners have experienced problems in canceling PMI. At other times, lenders may have agreed to terminate coverage when the borrower's equity reached 20 percent, but the policies and procedures used for canceling or terminating PMI coverage varied widely among lenders. Prior to the Act, homeowners had limited recourse when lenders refused to cancel their PMI coverage. Even homeowners in the few states that had laws pertaining to PMI cancellation or termination noted difficulties in canceling or terminating their PMI policies. The Act now protects homeowners by prohibiting life of loan PMI coverage for borrower-paid PMI products and establishing uniform procedures for the cancellation and termination of PMI policies.

Applicability and Exemptions

The Act applies primarily to “residential mortgage transactions,” defined as mortgage loan transactions consummated on or after July 29, 1999, to finance the acquisition, initial construction or refinancing of a single-family dwelling that serves as a borrower's principal residence. The Act also includes provisions for annual written disclosures for “residential mortgages,” defined as mortgages, loans or other evidences of a security interest created for a single-family dwelling that is the principal residence of the borrower (12 U.S.C. 4901(14) and (15)). A condominium, townhouse, cooperative or mobile home is a single-family dwelling covered by the Act.

The Act's requirements vary depending on whether a mortgage is:

- A “residential mortgage” or a “residential mortgage transaction;”
- Defined as high risk (either by the lender in the case of nonconforming loans, or Fannie Mae and Freddie Mac in the case of conforming loans);
- Financed under a fixed rate or an adjustable rate; or
- Covered by borrower-paid private mortgage insurance (BPMI) or lender-paid private mortgage insurance (LPMI).

Examination Objectives

Determine that institutions have established adequate policies, procedures, and internal controls to provide reasonable assurance of compliance with the Act.

Examination Procedures

Examination procedures related to HPA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Maintenance of Escrow Accounts and Insurance Products
 - [HPA, 12 U.S.C. 4902, 4903\(a\)\(3\), and 4904](#)
 - [CFPB Bulletin 2015-03 \(August 4, 2015\)](#)

The CFPB has [HPA Examination Procedures](#) which is another tool for examiners.

Real Estate Settlement Procedures Act

Authority and Purpose

The [Real Estate Settlement Procedures Act \(RESPA\)](#) (12 U.S.C. 2601 *et seq.*) (the Act) became effective on June 20, 1975. The Act requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process. The Act also prohibits specific practices, such as kickbacks, and places limitations upon the use of escrow accounts. The Department of Housing and Urban Development (HUD) originally promulgated Regulation X, which implements RESPA.

Congress has amended RESPA significantly since its enactment. The National Affordable Housing Act of 1990 amended RESPA to require detailed disclosures concerning the transfer, sale, or assignment of mortgage servicing. It also requires disclosures for mortgage escrow accounts at closing and annually thereafter, itemizing the charges to be paid by the borrower and what is paid out of the account by the servicer.

In October 1992, Congress amended RESPA to cover subordinate lien loans.

Congress, when it enacted the Economic Growth and Regulatory Paperwork Reduction Act of 1996, further amended RESPA to clarify certain definitions, including “controlled business arrangement,” which was changed to “affiliated business arrangement.” The changes also reduced the disclosures under the mortgage servicing provisions of RESPA.

In 2008, HUD issued a RESPA Reform Rule (73 Fed. Reg. 68204, November 17, 2008) that included substantive and technical changes to the existing RESPA regulations and different implementation dates for various provisions.

Substantive changes included a standard Good Faith Estimate (GFE) form and a revised HUD-1 Settlement Statement that were required as of January 1, 2010. Technical changes, including streamlined mortgage servicing disclosure language, elimination of outdated escrow account provisions, and a provision permitting an “average charge” to be listed on the GFE and HUD-1 Settlement Statement, took effect on January 16, 2009. In addition, HUD clarified that all disclosures required by RESPA are permitted to be provided electronically, in accordance with the Electronic Signatures in Global and National Commerce Act (E-Sign).

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111-203 (July 10, 2010) (Dodd-Frank Act) granted rule-making authority under RESPA to the Consumer Financial Protection Bureau (CFPB) and, with respect to entities under its jurisdiction, generally granted authority to the CFPB to supervise for and enforce compliance with RESPA and its implementing regulations. In December 2011, the CFPB restated HUD's implementing regulation at 12 CFR Part 1024 (76 Fed. Reg. 78978) (December 20, 2011).

Since December 2011, the CFPB has issued a series of final rules amending Regulation X. On January 17, 2013, the CFPB issued a final rule that implemented certain provisions of Title XIV of the Dodd-Frank Act and included substantive and technical changes to the existing regulations. (78 Fed. Reg. 10695) (February 14, 2013). Substantive changes included modifying the servicing transfer notice requirements and implementing new procedures and notice requirements related to borrowers' error resolution requests and information requests. The amendments also included new provisions related to escrow payments; force-placed insurance; general servicing; policies, procedures, and requirements; early intervention; continuity of contact; and loss mitigation. The amendments were effective as of January 10, 2014.

Subsequently, on July 10, 2013, September 13, 2013, and October 22, 2014, the CFPB issued final rules to further amend Regulation X ((78 Fed. Reg. 44685) (July 24, 2013), (78 Fed. Reg. 60381) (October 1, 2013), and (79 Fed. Reg. 65299) (November 3, 2014)). The final rules included substantive and technical changes to the existing regulations, including revisions to provisions on the relation to state law of Regulation X's servicing provisions, to the loss mitigation procedure requirements, and to the requirements relating to notices of error and information requests. On October 15, 2013, the CFPB issued an interim final rule to further amend Regulation X (78 Fed. Reg. 62993) (October 23, 2013) to exempt servicers from the early intervention requirements in certain circumstances. The Regulation X amendments were effective as of January 10, 2014.

On August 4, 2016, the CFPB issued a final rule to further clarify, revise, and amend provisions of Regulation X as well as Regulation Z, the regulation implementing TILA. (81 Fed. Reg. 72160) (October 19, 2016). The amendments in the final rule are referenced in this document as the "2016 Servicing Rule." The 2016 Servicing Rule establishes a definition of successor in interest and provides that confirmed successors in interest are considered "borrowers" for the purposes of Regulation X's mortgage servicing provisions. Confirmed successor in interest means a successor in interest once a servicer has confirmed the successor in interest's identity and ownership interest in a property that secures a mortgage loan subject to Subpart C of Regulation X. The 2016 Servicing Rule also addresses compliance with certain servicing requirements when a person is a debtor in bankruptcy or sends a cease communication request under the Fair Debt Collection Practices Act (FDCPA).

Additionally, the 2016 Servicing Rule clarifies, revises, or amends provisions regarding force-placed insurance notices, policy and procedure requirements, early intervention, and loss mitigation requirements under Regulation X's mortgage servicing provisions; and

which loans are considered in determining whether a servicer qualifies as a small servicer, certain periodic statement requirements relating to bankruptcy and charge-off, and prompt crediting requirements under Regulation Z's mortgage servicing provisions. The 2016 Servicing Rule was effective October 19, 2017, except for the provisions related to successors in interest and periodic statements for borrowers in bankruptcy, which took effect on April 19, 2018.

The CFPB concurrently issued an interpretive rule under the FDCPA to clarify the interaction of the FDCPA and specified mortgage servicing rules in Regulations X and Z. (81 Fed. Reg. 71977) (October 19, 2016). This interpretive rule constitutes an advisory opinion for purposes of the FDCPA and provides safe harbors from liability for servicers acting in compliance with it.

On October 4, 2017, the CFPB issued an interim final rule amending a provision of the 2016 Servicing Rule relating to the timing for servicers to provide modified written early intervention notices under Regulation X to borrowers who have invoked their cease communication rights under the FDCPA. (82 FR 47953) (October 16, 2017). The interim final rule was effective October 19, 2017.

Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce FRB Regulation X over MMEs.

Examination Objectives

RESPA and its implementing regulation, Regulation X, impose requirements for servicing transfers, written consumer information requests, resolution of notices of error, force-placed insurance, early intervention and continuity of contact for delinquent borrowers, loss mitigation procedures, general servicing policies and procedures, and escrow account maintenance.

Determine that policies, procedures, and internal controls have been established and evaluate their adequacy to provide reasonable assurance of compliance with the requirements of Regulation X.

Evaluate adherence to established policies, procedures, and internal control guidelines.

Examination Procedures

Examination procedures related to RESPA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Servicing and Loan Ownership Transfers
 - [Regulation X, 12 CFR 1024.17](#)
 - [Regulation X, 12 CFR 1024.33](#)
 - [Regulation X, 12 CFR 1024.35](#)
 - [Regulation X, 12 CFR 1024.36](#)

- [Regulation X, 12 CFR 1024.38](#)
- [CFPB Bulletin 2014-01 \(August 19, 2014\)](#)
- Payment Processing and Account Maintenance
 - [Regulation X, 12 CFR 1024.38](#)
 - [CFPB Bulletin 2013-12 \(October 15, 2013\)](#)
- Error Resolution, Consumer Inquiries, and Complaints
 - [Regulation X, 12 CFR 1024.35](#)
 - [Regulation X, 12 CFR 1024.36](#)
 - [Regulation X, 12 CFR 1024.38](#)
- Maintenance of Escrow Accounts and Insurance Products
 - [Regulation X, 12 CFR 1024.17](#)
 - [Regulation X, 12 CFR 1024.34](#)
 - [Regulation X, 12 CFR 1024.37](#)
 - [Regulation X, 12 CFR 1024.38](#)
- Loss Mitigation, Early Intervention, and Continuity of Contact
 - [Regulation X, 12 CFR 1024.39](#)
 - [Regulation X, 12 CFR 1024.40](#)
 - [Regulation X, 12 CFR 1024.41](#)
 - [CFPB Bulletin 2013-12 \(October 15, 2013\)](#)
- Foreclosures
 - [Regulation X, 12 CFR 1024.38](#)
 - [Regulation X, 12 CFR 1024.41](#)

The CFPB has [RESPA Examination Procedures](#) which is another tool for examiners.

Servicemembers Civil Relief Act

Authority and Purpose

The [Servicemembers Civil Relief Act](#), enacted in 2003 and amended several times since then, revised and expanded the Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA), a law designed to ease financial burdens on servicemembers during periods of military service. See 50 U.S.C. §§ 3901-4043. The SCRA is a federal law that provides protections for military members as they enter active duty. It covers issues such as rental agreements, security deposits, prepaid rent, evictions, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments.

The location of the SCRA within the United States Code changed in late 2015. Previously found at (codified and cited as) 50 U.S.C. App. §§ 501-597b, there was an editorial reclassification of the SCRA by the Office of the Law Revision Counsel of the United States House of Representatives that became effective on December 1, 2015. The SCRA is now found at (codified as) 50 U.S.C. §§ 3901-4043.

On December 12, 2017, the President signed into law the National Defense Authorization Act for Fiscal Year 2018, that, inter alia, extended the one-year tail coverage period

described above through December 31, 2019. See National Defense Authorization Act for Fiscal Year 2018, Pub. L. No. 115-91, § 557.

Applicability and Exemptions

The SCRA provides a wide range of benefits and protections to those in military service. Military service is defined under the SCRA as including:

- Full-time active duty members of the five military branches (Army, Navy, Air Force, Marine Corps and Coast Guard);
- Reservists on federal active duty; and
- Members of the National Guard on federal orders for a period of more than 30 days.

Servicemembers absent from duty for a lawful cause or because of sickness, wounds or leave are covered by the SCRA. Commissioned officers in active service of the Public Health Service (PHS) or the National Oceanic and Atmospheric Administration (NOAA) are also covered by the SCRA.

The SCRA also provides certain benefits and protections to servicemember dependents, and, in certain instances, to those who co-signed a loan for, or took out a loan with, a servicemember. The term “dependent” includes a servicemember’s spouse, children, and any other person for whom the servicemember has provided more than half of their financial support for the past 180 days. For most servicemembers, SCRA protections begin on the date they enter active duty military service. For military reservists, protections begin upon the receipt of certain military orders.

The SCRA’s benefits and protections include a six percent interest rate cap on financial obligations that were incurred prior to military service, the ability to stay civil court proceedings, protections in connection with default judgments, and protections in connection with mortgage foreclosures.

The SCRA requires a servicer to reduce the interest rate that a servicemember must pay on private and federal student loans to six (6) percent upon receiving a written request and a copy of the servicemember’s military orders calling them into military service. The servicer must reduce the servicemember’s interest rate to six (6) percent when:

- The loan is a pre-service obligation – entered into prior to the borrower entering military service;
- The borrower has submitted a written request to the servicer; and
- The borrower has provided a copy of their military orders to the servicer.

In any civil court proceeding in which the defendant servicemember does not make an appearance, a plaintiff creditor must file an affidavit with the court stating one of three things: 1) that the defendant is in military service; 2) that the defendant is not in military service; or 3) that the creditor is unable to determine whether or not the defendant is in

military service after making a good faith effort to determine the defendant's military service status.

This comes up most frequently for the Department of Justice in the context of judicial foreclosure proceedings. The way in which the SCRA treats the two types of foreclosure proceedings (judicial vs. non-judicial) is very different.

The SCRA prohibits servicers from foreclosing on any active duty military consumer, or any consumer within one year of active duty servicer, with pre-service obligations, unless the servicer satisfies certain requirements. Courts have the ability under the SCRA, and a duty in certain instances, to stay a non-judicial foreclosure proceeding or adjust the payments, if the servicemember's ability to meet the obligation is materially affected because of his or her military service.

Any of the rights and protections provided for in the SCRA may be waived. For mortgages, all modifications, terminations and cancellations require a written waiver of rights. Such written waivers are effective only if executed during or after the relevant period of military service.

To verify an individual's military service status, one may search the Department of Defense's Defense Manpower Data Center ("DMDC") database. This database may be located online at: <https://scra.dmdc.osd.mil/>.

Examination Procedures

Examiners should determine whether compliance policies and procedures include checking the Department of Defense's Manpower Database prior to completing a foreclosure and documenting the results.

Examination procedures related to the Servicemembers Civil Relief Act are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Payment Processing and Account Maintenance
 - [50 U.S.C. § 3937](#) (Six percent interest rate cap)
- Loss Mitigation, Early Intervention, and Continuity of Contact
 - [50 U.S.C. § 3918\(a\)](#). (Written waiver of rights)
- Foreclosures
 - [50 U.S.C. § 3953](#) (Non-judicial foreclosures)

[Interagency Guidance on Mortgage Servicing Practices Concerning Military Homeowners with Permanent Change of Station Orders](#) (June 21, 2012).

Truth in Lending Act

Authority and Purpose

The [Truth in Lending Act \(TILA\)](#), 15 U.S.C. 1601 *et seq.*, was enacted on May 29, 1968, as title I of the Consumer Credit Protection Act (Pub. L. 90-321). TILA, implemented by Regulation Z (12 CFR 1026), became effective July 1, 1969. The purpose of TILA is to promote the informed use of consumer credit by requiring disclosures about its terms and cost so that consumers will be able to more readily compare the various terms available and avoid the uninformed use of credit.

The Dodd-Frank Act generally granted rulemaking authority under TILA to the Consumer Financial Protection Bureau (CFPB). Title XIV of the Dodd-Frank Act included a number of amendments to TILA, and in 2013, the CFPB issued rules to implement them. Prohibitions on mandatory arbitration and waivers of consumer rights, as well as requirements that lengthen the time creditors must maintain an escrow account for Higher-Priced Mortgage Loans, were generally effective June 1, 2013. Most of the remaining amendments to Regulation Z were effective in January 2014. These amendments include expanded requirements for servicers of mortgage loans. The amendments also established new record retention requirements for certain provisions of TILA. On October 22, 2014, the CFPB issued a final rule providing an alternative small servicer definition for nonprofit entities. The final rule was effective on November 3, 2014, except for one provision that was effective on October 3, 2015.

On August 4, 2016, the CFPB issued a final rule to further clarify, revise, and amend provisions of Regulation Z and Regulation X (81 Fed. Reg. 72160) (October 19, 2016). The amendments in the final rule are referenced in this document as the “2016 Servicing Rule.” The 2016 Servicing Rule establishes definitions of successor in interest and confirmed successor in interest, and provides that a confirmed successor in interest is a “consumer” for purposes of the mortgage servicing provisions in Regulation Z.⁶ The 2016 Servicing Rule also adopts a general definition of delinquency that applies to all of the servicing provisions in Regulation X and the provisions regarding periodic statements for mortgage loans in Regulation Z. Furthermore, the 2016 Servicing Rule clarifies, revises, or amends provisions of Regulation Z relating to:

- Interest rate adjustment notices for adjustable-rate mortgages (ARMs) (12 CFR 1026.20);
- Prompt crediting of mortgage payments and responses to requests for payoff amounts (12 CFR 1026.36(c));
- Periodic statements for mortgage loans (12 CFR 1026.41), including requiring servicers to provide certain consumers in bankruptcy a modified periodic statement or coupon book; and
- Small servicers (12 CFR 1026.41(e)(4)).

The 2016 Servicing Rule was effective on October 19, 2017, except the provisions related to successors in interest and periodic statements for consumers in bankruptcy, which took effect on April 19, 2018.

The CFPB concurrently issued an interpretive rule under the Fair Debt Collection Practices Act (FDCPA) to clarify the interaction of FDCPA and specified mortgage servicing rules in Regulations X and Z. (81 Fed. Reg. 71977) (October 19, 2016). This interpretive rule constitutes an advisory opinion for purposes of FDCPA and provides safe harbors from liability for servicers acting in compliance with it.

Applicability and Exemptions

TILA and its implementing regulation, Regulation Z, impose requirements on servicers regarding periodic billing statements, crediting of payments, imposition of late fee and delinquency charges, provision of payoff statements with respect to closed-end consumer credit transactions secured by a principal dwelling, and disclosures regarding rate changes for adjustable rate mortgages. For open-end mortgages, Regulation Z provisions related to payment crediting and error resolution apply to the extent that the servicer is a creditor. Additionally, TILA and Regulation Z generally impose requirements on loan owners for loan ownership transfers. Pursuant to the applicable state law and the National Cooperative Protocol and Agreement, the MMC has specific authority to enforce FRB Regulation Z over MMEs.

Examination Procedures

Examination procedures related to TILA are contained in the following modules of the [MMC Mortgage Servicing Exam Procedures](#):

- Servicing and Loan Ownership Transfers
 - [Regulation Z, 12 CFR 1026.39](#)
- Payment Processing and Account Maintenance
 - [Regulation Z, 12 CFR 1026.5](#)
 - [Regulation Z, 12 CFR 1026.7](#)
 - [Regulation Z, 12 CFR 1026.10](#)
 - [Regulation Z, 12 CFR 1026.11](#)
 - [Regulation Z, 12 CFR 1026.17](#)
 - [Regulation Z, 12 CFR 1026.21](#)
 - [Regulation Z, 12 CFR 1026.31](#)
 - [Regulation Z, 12 CFR 1026.36](#)
 - [Regulation Z, 12 CFR 1026.38](#)
 - [Regulation Z, 12 CFR 1026.41](#)
- Error Resolution, Consumer Inquiries, and Complaints
 - [Regulation Z, 12 CFR 1026.13](#)
- Maintenance of Escrow Accounts and Insurance Products
 - [Regulation Z, 12 CFR 1026.20](#)

The CFPB has [TILA Examination Procedures](#) which is another tool for examiners.

Violations of Law and Consumer Harm Component Rating

Sound compliance management is a major consideration when evaluating the quality and effectiveness of a MME. An effective compliance management function should include a process for assessing and monitoring compliance performance, training, and for implementing corrective action based on identified deficiencies.

Examiners should strongly consider the severity and level of violations incurred by MMEs and making evaluations. Additionally, examiners should consider repeat violations and the MME's success in address outstanding violations.

The MMC has adopted the FFIEC CC Rating System which includes the following characterizations as it pertains to Violations of Law and Consumer Harm:

1	A rating of "1" indicates that violations are the result of minor weaknesses, if any, in the compliance management system. The type of consumer harm, if any, resulting from the violations would have a minimal impact on consumers. The violations and resulting consumer harm, if any, occurred over a brief period of time. The violations and resulting consumer harm, if any, are isolated in number.
2	A rating of "2" indicates that violations are the result of modest weaknesses in the compliance management system. The type of consumer harm resulting from the violations would have a limited impact on consumers. The violations and resulting consumer harm, if any, occurred over a limited period of time. The violations and resulting consumer harm, if any, are limited in number.
3	A rating of "3" indicates that violations are the result of material weaknesses in the compliance management system. The type of consumer harm resulting from the violations would have a considerable impact on consumers. The violations and resulting consumer harm, if any, occurred over an extended period of time. The violations and resulting consumer harm, if any, are numerous.
4	A rating of "4" indicates violations are the result of serious deficiencies in the compliance management system. The type of consumer harm resulting from the violations would have a serious impact on consumers. The violations and resulting consumer harm, if any, have been long-standing or repeated. The violations and resulting consumer harm, if any, are widespread or in multiple products or services.
5	A rating of "5" indicates that violations are the result of critical deficiencies in the compliance management system. The type of consumer harm resulting from the violations would have a serious impact on consumers. The violations and resulting consumer harm, if any, have been long-standing or repeated. The violations and resulting consumer harm, if any, are widespread or in multiple products or services.

Reverse Mortgage Origination and Servicing

Introduction

The purpose of the *Reverse Mortgage* module is to outline additional information on Reverse Mortgage products and to provide tools and references for examiners to use when reviewing a MME's reverse mortgage practices. The need to provide consumers with adequate information about reverse mortgages and to ensure appropriate consumer protections are high. Reverse mortgages are complex loan products that present a wide range of complicated options to borrowers. Moreover, they are typically secured by the borrower's primary asset – their home.

Because of the complexity and potential ramifications of reverse mortgages, HUD requires all Home Equity Conversion Mortgage (HECM) applicants to attend a counseling session with a HUD-approved counselor prior to the lender ordering the appraisal. Lenders must obtain a copy of the HECM counseling certificate from the counselor prior to proceeding with the HECM application process. Due to the unique features of reverse mortgages, examiners should follow the procedures that are specific to reverse mortgages and be aware that other examination procedures may not apply to reverse mortgages.

Reverse mortgage products enable eligible borrowers age 62 or older to borrow against the equity in their homes. Reverse mortgages are a financing option available to seniors who have equity in their homes and who want to manage their cash flow or supplement their income. Rather than making regular mortgage payments, a borrower may receive funds from a lender in a lump sum, as monthly payments, as a line of credit, or some combination of those options. Reverse mortgage proceeds may also be used for a variety of purposes.

The most common uses of reverse mortgage proceeds are for paying off an existing mortgage, making home repairs or improvements. Reverse mortgages can also be used for new home purchases or as part of a strategy offered by financial planners for seniors to delay using social security benefits or other retirement assets. Regardless of the purpose of the reverse mortgage loan, with interest accruing and the addition of regular monthly fees (e.g. monthly mortgage insurance premiums and servicing fees), the balance of the loan generally increases each month.

Reverse Mortgage Products

The reverse mortgage market currently consists of two types of products: proprietary products offered by individual lenders and FHA-insured reverse mortgages offered under HUD's Home Equity Conversion Mortgage (HECM) program. A list of the common characteristics of proprietary reverse mortgage products appears below. However, most reverse mortgages are originated through HUD's HECM program.

Characteristics of Proprietary Products (NON-HECM)

- Typically, these are jumbo loans exceeding the HECM value limit published on HUD's website here: https://www.hud.gov/program_offices/housing/sfh/hecm.
- Not required to comply with HECM program requirements, notably the value limit; fee limits and requirements; and the mandatory counseling requirement.
- Borrowers get fewer protections if they default, and the lenders do not have the benefit of FHA mortgage insurance.
- Borrowers get no FHA backstop in the event of servicer failure or bankruptcy.

Characteristics of a HECM

- A non-recourse loan that requires no repayment until a future event
- Mortgage amount is based on:
 - Age of the youngest borrower or “non-borrowing spouse” if one spouse is under 62 (non-HECM products often use lower minimum ages).
 - Current interest rate.
 - Lesser of appraised value or HUD HECM Lending Limit.
- Maximum Claim Amount – The lower of the appraised value of the property or the FHA county loan limit.
Principle Limit – The maximum amount the consumer can borrow. This amount is determined by multiplying the maximum claim amount by a principle limit factor (based on the age of the borrower and expected interest rate). The older the borrower is, the higher the principle limit factor.
- A set-aside, as an amount reserved from the reverse mortgage proceeds for payment of taxes and insurance. The lender will determine whether a set-aside is required and, if so, whether it will be fully, or partially, funded. For a HECM loan, a set-aside is not an escrow account as defined in Regulation X, but it serves the same purpose.
- Occupancy requirement that the borrower occupy the home as a principal residence.
- Disbursement options:
 - Tenure - equal monthly payments as long as at least one borrower lives and continues to occupy the property as a principal residence.
 - Term - equal monthly payments³ for a fixed period of months selected.
 - Line of Credit - unscheduled payments or in installments, at times and in amounts of borrower's choosing until the line of credit is exhausted.
 - Modified Tenure - combination of line of credit with monthly payments for as long as the borrower remains in the home.
 - Modified Term - combination of line of credit with monthly payments for a fixed period of months selected by the borrower.

³ These payments are determined using the present value of an annuity formula.

HECM Financial Assessment

The HUD HECM financial assessment was initially effective for HECM case numbers assigned on or after March 2, 2015. However, HUD revised its [HECM Financial Assessment and Property Charge Guide](#) on July 13, 2016, which then became effective for HECM case numbers assigned on or after October 3, 2016.

MMEs must evaluate the borrower's willingness and capacity to timely meet his or her financial obligations and to comply with the mortgage requirements. MMEs must also determine if the HECM will represent a sustainable solution to the borrower's financial circumstances. In cases where the borrower has not demonstrated that he or she can adequately meet their financial obligations and no extenuating circumstances or compensation factors have been documented, Life Expectancy Set-Asides (LESA) will be required which will assist the borrower in effectively managing their finances.

The financial assessment includes a thorough analysis of the borrower's:

- credit history, including property charge payments
- cash flow / residual income

Credit / Property Charge Payment History

When an analysis of the borrower's payment history is performed, special attention should be placed on any delinquencies that may suggest a failure to meet financial obligations, such as:

- Late mortgage payments
- Defaults/collections/charge offs/judgments
- Foreclosures
- Bankruptcies
- Tax liens

The MME must also ensure that any property related fees and charges are paid as necessary, including, but not limited to:

- Property taxes (city, county, state, etc.)
- Homeowners insurance
- Hazard insurance
- Flood insurance
- Homeowners association (HOA) or planned unit development (PUD) fees

Cash Flow / Residual Income

A cash flow / residual income analysis is used to determine whether a borrower can meet his or her financial obligations by taking into consideration the borrower's documented income.

Examiners should refer to the HECM Financial Assessment and Property Charge Guide for further details.

Interest Rate and Mortgage Insurance Premium

Interest Rate

- HECM borrowers can choose an adjustable interest rate or a fixed rate. If a borrower chooses an adjustable interest rate, the interest rate may adjust monthly or annually.
- Lenders may not make an adjustment to annual, adjustable rate HECMs by more than two percentage (2%) points per year, and by not more than five total percentage (5%) points over the life of the loan.
- A lender may offer a monthly, adjustable rate HECM and establish its own lifetime interest rate cap. Interest rate restrictions can be found in HUD's HECM Handbook 4235.1 Chapter 1-8.
- Fixed interest rate HECMs are available only in a Single Disbursement Lump Sum.

Mortgage Insurance Premium

- HECM insurance guarantees that borrowers will receive expected loan advances. The insurance also guarantees that, if a borrower or their heirs sell the home to repay the loan, the total debt will not be greater than the value of the home.
- An upfront mortgage insurance premium is paid to FHA at loan closing and is typically financed. Recurring monthly premiums are then added to the balance of the loan.
- The monthly premium is calculated as one-twelfth (1/12) of an annual rate (currently .05 percent) applied to the current loan balance. More information may be found in HECM Handbook 4235.1 Chapter 1-10.

Loan is due when

- The last living borrower on the note dies or an eligible non-borrowing spouse dies (non-borrowing spouse eligibility change in effect after August 4, 2014.*)
- The borrower and any co-borrower transfer ownership.
- Borrower goes into default, fails to pay taxes or insurance, or fails to maintain the property in good repair. **
- The property ceases to be the principal residence of the borrower and any co-borrower or eligible non-borrowing spouse for over 12 consecutive months.

* Eligible non-borrowing spouses must certify within 30 days of last surviving borrower's death and annually thereafter their eligibility to occupy the residence and defer the due and payable status of the loan.

** Loss mitigation options may be available in the case of default for non-payment of taxes, insurance, or for failure to maintain the property. A borrower may enter into a

repayment plan, may be eligible for a deed-in-lieu, a short sale or a refinance into another reverse mortgage.

Fees and Costs

The applicable costs and fees for a HECM which include the mortgage insurance premium, origination fee, third-party charges, and the servicing fee are summarized on [HUD's website](#).

Federal Reverse Mortgage Disclosure Requirements – Origination

Regulation Z

Unlike forward mortgages, Federal Regulation Z, *Know Before You Owe*, requirements/disclosures do not apply to reverse mortgages. Due to the initial disbursement limit for HECMs implemented by HUD Mortgagee Letter 13-27, most reverse mortgages assigned an FHA case number after September 30, 2013, are adjustable rate, open-end loans. This means the disclosure requirements for reverse mortgages are primarily housed in sections 1026.33 and 1026.40 of Regulation Z.

TALC Disclosure

Section 1026.33 defines a reverse mortgage and lays out the requirements for the Total Annual Loan Cost Rates (TALC) disclosure. While the TALC disclosure is unique to reverse mortgages, examiners should think of it as an array of APRs for reverse mortgages. The TALC rates cause the future value of all advances to borrowers to equal the payoff amount under a variety of loan period and house value appreciate assumptions.

The TALC disclosure must be provided three business days prior to consummation, but generally this document is included in the initial disclosure package. Per Section 1026.33, the TALC disclosures must include:

- A statement that the consumer is not obligated to complete the transaction;
- A good-faith projection of the total cost of credit expressed as a table of “total-annual-loan-cost rates” (TALC rates);
- An itemization of loan terms, charges, the age of the youngest borrower, and the appraised property value; and,
- An explanation of the table of total annual loan cost rates as provided in the model form found in Appendix K of Regulation Z

Examiners should refer to the [MMC Reverse Mortgage TALC Appendix](#) as well as [Appendix K to Regulation Z](#) for detailed instructions on how to calculate the required TALC rates and to view sample TALC disclosures.

Home Equity Disclosure for Open-End Reverse Mortgages

For open-end reverse mortgages, a home-equity disclosure made pursuant to Regulation Z, Section 1026.40, must be provided within three business days of application. The home-equity disclosure must include the following information:

- A statement that the consumer should retain the disclosure.
- How long the disclosed terms are available.
- A statement that the creditor will acquire a security interest in the property and that the consumer may lose the property in the event of default.
- A statement that, under certain conditions, the creditor may terminate the loan and demand immediate repayment of the loan balance (for HECMs, these conditions are limited to instances of death of the borrowers, sale of the house, the house is no longer the borrowers' primary residence, property disrepair, and failure to pay taxes/insurance).
- The payment terms, including the lengths of the draw and repayment periods, how the minimum periodic payment is determined, and an example, based on a \$10,000 initial balance, of the terms of repayment assuming minimum payments are made. This section of the home-equity disclosure is unique for reverse mortgages.
- The APR, which for a reverse mortgage is the expected interest rate used when determining the payment plan (not applicable if the loan has a variable rate; see variable rate bullet below).
- Fees charged to originate the reverse mortgage (i.e. appraisal, upfront mortgage insurance, origination fee, etc.).
- A statement regarding the negative amortization feature of the loan.
- Minimum draw and transaction requirements.
- A statement that the borrower should consult a tax advisor regarding the deductibility of loan interest and charges.
- Variable Rate Information (if applicable):
 - A statement that the loan has a variable rate, the index and margin used to make adjustments and where info on the index can be found, and a statement that the borrower should ask about current index and margin values.
 - A statement that the initial rate is not based on the current index and margin.
 - The frequency of changes in the interest rate.
 - Information on rate change limits and the lifetime rate cap.
 - The minimum payment for each payment option when the max interest rate is reached, based on a sample \$10,000 initial balance, and the earliest time the max rate can be reached.
 - A 15-year historical example, based on a sample \$10,000 initial balance, illustrating how index changes would affect the balance and payments (this is unique for reverse mortgages). The payment column will be blank except for when the example term ends or when the consumer is projected to die.

Examiners should refer to the official commentary to Regulation Z, Section 1026.40(d)(5), for information on how the minimum payment and historical example sections of the home-equity disclosure should be completed. Essentially, the home-equity disclosure should assume the consumer receives only a single \$10,000 advance at closing.⁴ Although reverse mortgages are nonrecourse loans, the creditor must assume all disbursements and accrued interest is paid back. For the term⁵ payment option, creditors must complete the disclosure assuming the loan is paid back in a lump sum payment at the end of the term. For tenure⁶ or line of credit plans, the credit must assume the loan is paid back in a lump sum upon the consumer's death.

The creditor is encouraged to disclose its assumptions on the home-equity disclosure. These [Sample Reverse Mortgage Disclosures](#) include the HECM Federal Truth in Lending Disclosure Statement and HUD-1 Settlement Statement.

TIL Disclosure for Closed-End Reverse Mortgages

The assumptions creditors use for completing the TIL disclosure for a closed-end reverse mortgage are the same as those used when completing the payment example sections of the home-equity disclosure:

- APR;
- Finance Charge;
- Amount Financed;
- Total of Payments; and,
- Interest Rate and Payment Summary Table.

Most closed-end reverse mortgages result in a disbursement of all available funds at closing and do not involve monthly payments to the consumer or lines of credit. Since most closed-end reverse mortgages do not have a specific period for disbursements to the consumer, creditors must base the TIL disclosure on the assumption that repayment occurs in the projected year of the consumer's death.

If the closed-end reverse mortgage is set-up as a term monthly payment plan, the creditor must assume repayment occurs at the end of the term, even though repayment would actually occur when the borrower no longer occupies the property. Examiners should refer to Regulation Z, Section 1026.17(c)(14), commentary for more information on the assumptions to be made when generating TIL disclosures for closed-end reverse mortgages.

It should also be noted that, for the purposes of the interest rate and payment summary table on the TIL disclosure, reverse mortgages are not considered to have interest-only,

⁴ Though the sample does not reflect common occurrences in reverse mortgage transactions, Regulation Z requires the use of this sample.

⁵ Term payment options apply when the consumer elects to receive monthly payments for a set period (i.e. 10 years).

⁶ Tenure payment options apply when the consumer elects to receive monthly payments until the property is no longer her primary residence.

negative amortization, or balloon payment features. Therefore, the interest rate/payment table should not reflect these features. Please refer to Regulation Z, Section 1026.18(s), commentary for more information.

Regulation X

GFE for Closed-End Reverse Mortgages

Regulation X, Section 1024.7(h) exempts open-end mortgages from its GFE requirements, but a GFE must be disclosed, within three business days of application, for closed-end reverse mortgages. Furthermore, HUD Handbook 4235.1, Chapter 4-7, states creditors must provide a “good faith estimate” of settlement costs at application. Therefore, most creditors interpret this to mean a Regulation X form of the GFE is required. The GFE is primarily used to disclose the costs and fees associated with a reverse mortgage, but it provides a summary pertinent loan features. Instructions for completing a GFE for a reverse mortgage are found in Appendix C to Regulation X. Below are the pertinent elements to be included in a GFE’s *Loan Terms* table for a reverse mortgage:

- The loan amount is the initial principle limit of the reverse mortgage.
- The loan term is disclosed as “N/A”.
- The initial interest rate is the rate disclosed in the note.
- The initial monthly payment is disclosed as “N/A”.
- The loan balance can rise even if the consumer makes payments on time, and it can rise to the maximum of “unknown”.
- If taxes and/or insurance will be paid by the servicer via a life expectancy set-aside or draws on the line of credit, the originator must mark the box that the mortgage does involve an escrow account. The fields for monthly payment should be filled with \$0⁷.
- The monthly amount owed for principle, interest, and mortgage insurance cannot rise.
- For the purpose of a GFE, reverse mortgages are not considered to have a balloon payment feature.

Just like forward mortgages, the fees and closing costs on reverse mortgage GFEs can only increase (within applicable limits) if there is a valid changed circumstance (refer to Regulation X, Section 1024.7).

HUD-1 for HECM Reverse Mortgages

Although Regulation Z, Section 1024.8, exempts open-end home equity plans from the HUD-1 requirement, HUD Handbook 4235.1, Chapter 6, and HUD Mortgagee Letter 2010-39 require all HECM reverse mortgages to be closed with a HUD-1 settlement

⁷ This requirement is found only in Appendix A to Regulation Z but, in the interest consistency, the GFE should also reflect this escrow account information.

statement. The HUD-1 will state all the settlement charges, payoffs, cash to borrowers, and a summary of loan terms. The *Loan Terms* table on page 3 of the HUD-1 is completed in the same way as the *Loan Terms* table from the GFE (see bulleted list in the previous section). The initial disbursement from the reverse mortgage is disclosed on line 204 of the HUD-1. Refer to Appendix A to Regulation X for more information on HUD-1 instructions.

Other Federal Regulations applicable to Reverse Mortgage Origination

- [Equal Credit Opportunity Act \(ECOA\)](#) – Regulation B, 12 CFR, Section 1002.9 and 1002.14(a)(2)
 - If the creditor denies the reverse mortgage applicant, or the application is incomplete, a notice of action taken/incompleteness must be provided along with the ECOA notice.
 - A separate NOTICE OF RIGHT TO RECEIVE APPRAISAL REPORT must be provided since Loan Estimates are not provided to reverse mortgage applicants.
- [Home Mortgage Disclosure Act \(HMDA\)](#) – Regulation C, 12 CFR, Section 1003.4
 - As of January 1, 2018, financial institutions must collect and report HMDA data on all reverse mortgages, including open-end reverse mortgages.
- [Mortgage Acts and Practices \(MAP Rule\)](#) – Regulation N, 12 CFR, Section 1014.3
 - Prohibitions against certain representations made in advertisements for mortgage products apply to reverse mortgages.
- [Gramm-Leach-Bliley Act \(GLBA\)](#) – Regulation P, 12 CFR, Section 1016.6 and the Appendix
 - Creditors must provide disclosures describing nonpublic personal information they obtain and how it is shared.
- [Real Estate Settlement Procedures Act \(RESPA\)](#) – Regulation X, 12 CFR, Section 1024.33 and Section 1024.15(b)
 - Creditors must provide a separate Servicing Disclosure Statement that informs the consumer if servicing of the mortgage will be retained or transferred by the creditor.
 - If applicable, an Affiliate Business Arrangement Disclosure would be required if the creditor refers the consumer to an affiliate for a settlement service.
- [Truth in Lending Act \(TILA\)](#) – Regulation Z, 12 CFR, Section 1026.23(b)
 - If the reverse mortgage is a refinance transaction, the creditor must provide the *Right to Rescind Notice* at closing.
- [HUD Handbook 4235.1, Chapter 4-7](#)

- HUD guidelines require creditors to provide blank copies of the HECM mortgage, note, and payment plan closing docs at application. The consumer must sign a certification that these documents were provided and explained.
 - Title 31 CFR, Part 1029 does not require loan/finance companies to maintain a customer identification program, but the HECM Handbook requires consumers to provide picture identification, proof of age, and proof of social security number during the origination process.
 - At application, the credit must provide a blank copy of *What to do in Case of Late Payment of Non-Payment by Your Lender* to the consumer. See Appendix 14 to the HUD HECM Handbook.
- UDAAP (Dodd Frank Act of 2010)
 - Refer to the [CFPB's UDAAP exam procedures](#). Note the transaction-related exam procedures for marketing and disclosures.
 - [CFPB Mortgage Origination Exam Procedures](#)
 - Refer to Module Two (Advertising and Marketing) which refers to Other Risks to Consumers for Reverse Mortgages

Federal Laws and Regulations that Apply to Reverse Mortgage Servicing

UDAAP

Analysis of consumer complaints may reveal a potential unfair deceptive or abusive acts or practice (UDAAP). With respect to Licensees' interactions with consumers (see **Dodd-Frank Act of 2010**) UDAAP are misleading or harmful behaviors by those who offer financial products or services to consumers.

The Dodd-Frank Act requires that consumers have access to information that lets them choose the option that is best for them. Consumers should only have to take reasonable measures, not impractical or expensive ones, to determine whether purchasing a financial product or service is in their best interest.

The Dodd-Frank Act further defines an unfair practice as one that harms consumers financially and that consumers cannot reasonably avoid. Financial product and service providers are not allowed to deceive consumers into entering a transaction. They are not permitted to mislead consumers by failing to make full disclosure through specific statements or through a lack of clear and full disclosure.

Real Estate Settlement Procedures Act (RESPA)

RESPA imposes requirements for servicing transfers, responding to qualified written requests, resolution of notices of error, force-placed insurance, and escrow account maintenance.

Truth in Lending Act (TILA)

TILA imposes requirements on servicers for payment crediting, including late fee assessments and delinquency charges, payoff statements with respect to closed-end consumer credit secured by principal dwelling, rate change disclosures for adjustable rate mortgages. For open-ended mortgage, TILA contains provisions related to error resolution to the extent that the servicer is a creditor and loan ownership transfers.

Fair Debt Collection Practices Act (FDCPA)

FDCPA governs the activities of third-party collection agencies, which may include a reverse mortgage loan servicer.

Gramm Leach Bliley Act (GLBA)

GLBA requires servicers to provide privacy notices and limit information sharing.

Equal Credit Opportunity Act (ECOA)

ECOA and its implementing regulation, Regulation B, applies to servicers that are creditors, making it unlawful to discriminate in any aspect of a credit transaction.

Areas of Review and Applicable Regulations for Reverse Mortgage Servicing

Servicing Transfers, Loan Ownership Transfers, and Escrow Disclosures

- Servicing transfer disclosure requirements – Reg X 1024.33
- Collection practices (when applicable) – FDCPA 15 USC 1692g(a)
- Loan ownership transfers – Reg Z 1026.39
- Escrow transfers – Reg X 1024.17

Account Maintenance, Payments, and Disclosures

- Payment processing – Reg Z 1026.36(c)(1) and 1026.10
- Review policies for servicing related fees (inspections, etc.)
- Payoff statements – Reg Z 1026.36(c)(3)

Consumer Inquiries, Complaints, and Error Resolution Procedures

- Review relevant policies and procedures
- Error resolution procedures – Reg X 1024.35
- Requests for information – Reg X 1024.36

Maintenance of Escrow Accounts or Set-Asides and Insurance products

- Escrow disclosures – Reg X 1024.17
- Escrow disbursements – Reg X 1024.34
- Force-placed insurance – Reg X 1024.37
- Review LESA policies and procedures

Information Sharing and Privacy

- Privacy notices – 1016.4 and 1016.5
- Information sharing – 1022.21

Events of Default and Death of Borrower

- Review policies and procedures for death of a borrower
- Evaluate collection and loss mitigation practices

Foreclosures

- Review foreclosure policies and procedures

Additional Tools for Examiners

ComplianceEase (www.complianceease.com) has a feature for reviewing reverse mortgages. Currently, the main functionality of the Reverse Mortgage Tool on the ComplianceEase website is verifying TALC rates. However, given the difficulty of calculating these rates, the Reverse Mortgage Tool is quite helpful for reviewing reverse mortgage files.

HUD HECM Mortgagee Letters can be found on HUD's webpage [HECM Mortgagee Letters](#)