



TEXAS SAVINGS and LOAN DEPARTMENT

Mortgage Broker Compliance Examination Rating System

The Texas Savings and Loan Department has adopted with slight modification the regulatory compliance rating system established and implemented by the Federal Financial Institution Regulatory Agencies.

The Federal Financial Institutions Examination Council (FFIEC) developed and recommended to the member agencies for adoption a uniform consumer compliance rating system. The purpose of the rating system is to reflect in a comprehensive and uniform fashion the nature and extent of a broker's compliance with consumer protection and civil rights laws and regulations.

The examiner should disclose the recommended consumer compliance rating to the mortgage broker at the time of the examination along with a comment that the Department must concur with the rating and may, in some instances, change the rating before the report is sent to the mortgage broker. Mortgage broker examination reports will disclose the assigned rating in the Compliance Rating section of the report. With respect to a mortgage broker that is rated "3", "4", or "5", for consumer compliance, report comments should appropriately elaborate on the particular deficiencies noted in the broker's compliance program to further support the rating assigned.

The primary purpose of the rating system is to help identify those mortgage brokers whose compliance with consumer protection and civil rights laws and regulations displays weaknesses requiring special supervisory attention and which are cause for more than a normal degree of supervisory concern. In addition to the compliance ratings, greater supervisory concern and enforcement actions may result from consumer complaints and/or unlicensed activity disclosed either during or independent of the examination process.

COMPOSITE RATINGS

One

A mortgage broker in this category is in a strong compliance position. The broker has sufficient knowledge of applicable state and federal statutes and regulations, and adequate staff for effectuating compliance. An effective formal compliance program, including an efficient system of internal procedures and controls, has been established. Changes in consumer statutes and regulations are promptly reflected in the broker's policies, procedures, and compliance training. The broker provides adequate training for employees. If any violations are noted, they relate to relatively minor deficiencies in forms or practices that are easily corrected. The examination reveals no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in repeat violations. The broker promptly corrects violations. As a result, the broker gives no cause for supervisory concern.

Commentary - This rating would include brokers exhibiting an equal emphasis on compliance with their focus on origination. This emphasis is evidenced by a proactive compliance program and limited violations. There is either an independent review process or sufficient controls and confirmations to provide ongoing assurance of quality.

Two

A mortgage broker in this category is in a satisfactory compliance position. The broker has sufficient knowledge of applicable state and federal statutes and regulations, and adequate staff for effectuating compliance. Although a system of internal operating procedures and controls has been established to ensure compliance, violations have nonetheless occurred. These violations, however, involve technical aspects of the law or result from oversight on the part of operating personnel.

Modifications in the broker's compliance program and/or the establishment of additional review/audit procedures may eliminate many of the violations. Compliance training is satisfactory. The examination reveals no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in well-defined patterns of repeat violations.

Commentary - This rating is representative of a broker who has a program of compliance, formal or informal, that is sufficient to prevent systemic violations on a given issue. An individual loan file may have multiple problems where checks and balances failed, but those problems are isolated and are not found repeatedly in other files. Despite the number of violations, there are no significant fee issues and the examiner would not recommend a formal response delineating a requirement for corrective action to the Department.

Three

Generally, a mortgage broker in this category is in a less than satisfactory compliance position. Mortgage brokers in this category are a cause for supervisory concern and require more than normal supervision to remedy deficiencies. Violations may be numerous. In addition, previously identified practices resulting in violations may remain uncorrected. Overcharges, if present, involve a few consumers and are minimal in amount. Compliance training exists but is less than satisfactory. The examination reveals no evidence of discriminatory acts or practices. Although the broker may have the ability to effectuate compliance, increased efforts are necessary. The numerous violations discovered are an indication that the broker has not devoted sufficient time and attention to consumer compliance. Operating procedures and controls have not proven effective and require strengthening. This may be accomplished by, among other things, designating a compliance officer and developing and implementing a comprehensive and effective compliance program. By identifying a mortgage broker with marginal compliance early, additional supervisory measures may be employed to eliminate violations and prevent further deterioration in the broker's less than satisfactory compliance position.

Commentary - This rating is indicative of an operation with systemic compliance and/or documentation problems. At least some fee issues will be present including gross underestimation of fees or rates, although these violations will not be egregious or widespread. The examiner envisions the need for a plan of corrective action and formal response to the Department.

Four

A mortgage broker in this category requires close supervisory attention and monitoring to promptly correct the serious compliance problems. Numerous violations are present. Overcharges, if any, affect a significant number of consumers and involve a substantial amount of money. Practices resulting in violations cited at previous examinations often remain uncorrected. Compliance training is poor or nonexistent. Discriminatory acts or practices may be in evidence. Clearly, the broker has not exerted sufficient efforts to ensure compliance. Examination findings may indicate a lack of interest in administering an effective compliance program, which may have contributed to the seriousness of the broker's compliance problem. Internal procedures and controls have not proven effective and are seriously deficient. Prompt action on the part of the Department may enable the mortgage broker to correct the deficiencies and improve the broker's compliance position.

Commentary - This rating is reflective of a broker with widespread documentation problems as well as numerous fee-related issues. The examiner believes that, based on the limited files reviewed, there are probably a significant number of loan applicants who are entitled to reimbursement. The Department will take formal enforcement action. There is a need for an independent third-party review of the broker's files to determine how many loan applicants are entitled to reimbursement and the amounts of reimbursements to be paid to them by the broker.

Five

A mortgage broker in this category is in need of the strongest supervisory attention and monitoring. The broker is substantially in noncompliance with the consumer laws and regulations. The broker has demonstrated an unwillingness or inability to operate within the scope of consumer laws and regulations. Previous efforts on the part of the Department to obtain voluntary compliance have been unproductive. Discrimination, substantial overcharges, and/or practices resulting in serious repeat violations are present.

Commentary - This rating is reflective of a broker with widespread documentation problems, numerous fee-related issues, and an intentional refusal to maintain adequate records. Lack of critical loan file documentation or entire loan files impedes the examiner's ability to effectively examine the broker. The Department will take formal enforcement action possibly including revocation for failure to take prompt corrective action.