

# Visitation Handout

**State of Michigan**  
**Department of Insurance and Financial Services**  
**Mortgage Examination and Investigation Section**  
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## Examination - Top Missing Items

1. Information Security Program (16 CFR 314.3 and 314.4)
2. Identity Theft Prevention Program (16 CFR 681.1)
3. Anti-Money Laundering Program (31 CFR 1029.210)
4. Address Discrepancy Policy (Section 1022.82(c) of Regulation V)
5. Invoices for 3<sup>rd</sup> party charges (MBLSLA, Section 21(1), 21(2), & 23(1))
6. Compensation agreements, broker/lender and individual loan originator (Sections 1026.25 & 1026.36 of Regulation Z)
7. Documentation of compensation received and/or paid (Reg. Z, Sec. 25 & 36)
8. Lending Criteria Pamphlet (Mortgage Lending Practices Act, Sec. 2(10))
9. Documented Date of Appraisal Delivery (Section 1002.14 of Regulation B)
10. Changed Circumstance Documentation (Section 1026.19 of Regulation Z)
11. CFPB Special Information Booklet, "Your home loan toolkit: A step-by-step guide" (Section 1026.19 of Regulation Z for purchase transactions and Section 6 of the Consumer Mortgage Protection Act for refinance transactions)

## **Examination - Common Violations**

### **1. Unlicensed Activity**

- a. Mortgage Loan Originators (MLOs) must be licensed prior to taking an application or offering or negotiating terms of a mortgage loan (MLOLA)
- b. Processors who act as independent contractors must be licensed MLOs (MLOLA)
- c. Processing entities that are registered as exempt with DIFS must ensure all processors are licensed as MLOs (MLOLA)
- d. MLOs that originate for one broker and process loans for a separate entity must be dually sponsored (MLOLA)

### **2. Not Maintaining Adequate Books & Records**

- a. Inability to determine compliance with Michigan or Federal Laws (MBLSLA Section 21(1) & SMLA Section 17(1))
- b. Failure to retain documents (MBLSLA Sec. 21(2) & SMLA 18)
  - i. Brokers need to download and retain documents available via the lender's portal

### **3. Loan Estimate and Closing Disclosure Issues**

- a. Missing information or improper format on Loan Estimate (not fee related)
- b. Not providing a list of settlement service providers or failing to list an available service provider for each settlement service a borrower may shop for
- c. Broker required to provide Loan Estimate within 3 days if file is not sent to Lender timely
- d. Not documenting reason or date of changed circumstances
- e. Not correctly disclosing third party origination fees on Closing Disclosure
- f. Not disclosing actual cost on Closing Disclosure for 3<sup>rd</sup> party charges when Closing Disclosure amounts would exceed the amount disclosed on Loan Estimate

**4. List of HUD-Approved Credit Counseling Agencies**

- a. Provided with incorrect zip code for borrowers on purchase transactions  
(use applicant's current zip code)

**5. Overcharges of Third-Party Fees**

- a. Credit Report
- b. Appraisal

**6. Late or Incorrect Filings**

- a. Financial Statements (MBLSLA Sec. 7(2) & SMLA 6a(2))
- b. Yearly or Quarterly Financial Condition  
(Section 21(3) MBLSLA & Section 6a(13) SMLA)
- c. Mortgage Call Reports (MBLSLA Sec. 21(3) & SMLA 6a(13))

**7. Adverse Action Notices**

- a. Notices missing the federal agency that administers compliance
- b. Notices list the incorrect name or address of the federal agency that administers compliance
- c. Notices missing credit score information when reason for denial was based upon credit history (Fair Credit Reporting Act)

**8. Policies and Procedures**

- a. Failure to create
- b. Failure to follow or implement
- c. Not applicable to size and scope of mortgage company's operations
- d. Failure to document updates, revisions, and training of employees

**9. Compensation**

- a. Brokers decreasing compensation and providing concessions/kickbacks/refunding fees after loan closing  
(including borrower-paid loans)
- b. Dual Compensation - MLOs receiving compensation for originating and processing the same loan
- c. Failure to maintain records to document compensation paid to MLOs

## **Examination Tips: *Make Sure...***

- Every application is signed and dated by the MLO and includes their Nationwide Multistate Licensing System & Registry (NMLS) ID#
- Staff can generate reports from the origination software when requested
- To provide the special information booklet under 1026.19 of Regulation Z, “Your home loan toolkit: A step-by-step guide,” at the time of application for purchase transactions. This booklet is also required for refinances transaction under Section 6 of the Consumer Mortgage Protection Act
- If you issue a revised Loan Estimate, retain documentation supporting the changed circumstance and a copy of the revised Loan Estimate
- To not charge any up-front fees other than for a credit report until the Loan Estimate has been provided and the borrower expresses an intent to proceed
- You do not charge more than the actual expense incurred for third party fees
- If you originate second mortgage loans, you may charge a processing fee up to 5% of the gross loan amount. The only other allowable charges are your actual expenses incurred and any charges that are permitted by any federal lending program designed to promote the making of secondary mortgage loans
- To preserve and keep each loan document in your possession or control available for examination, for no less than three years for first mortgage closed loans and no less than two years for second mortgage closed loans. For brokers, it is not the lender’s responsibility to maintain documents; possession includes items available to the broker to retrieve electronically without the assistance of the lender
- To maintain all compensation agreements and verification of payment for broker compensation and MLO compensation for not less than 3 years after the conclusion of the fiscal year of the licensee or registrant in which the compensation was paid/received or when the agreement was created
- MLOs must have their NMLS ID# listed on all applications, advertisements, solicitations, social media, websites, business cards, notes, mortgages, Loan Estimates, and Closing Disclosures
- You document reviews, revisions, updates, and training of employees for all policies and procedures

## Required Filings

### 1. Mortgage Call Report

- Mortgage Call Reports are filed electronically through the NMLS.
- Due quarterly, within 45 days of the end of the calendar quarter.
  - Q1 data (1/1–3/31) is due 5/15
  - Q2 data (4/1–6/30) is due 8/14
  - Q3 data (7/1–9/30) is due 11/14
  - Q4 data (10/1–12/31) is due 2/14
- Financial Condition – Due annually, within 90 days of the Fiscal Year End as reported in the company (MU1) form. Due quarterly if filing expanded Mortgage Call Reports.
- A delinquent filing of either report may be subject to a penalty of \$25 per day, maximum of \$1,000.

### 2. Financial Statement

- Filed/uploaded through NMLS
- Due annually, within 90 days of Fiscal Year End as reported in the Company (MU1) Form
  - A delinquent filing may be subject to a penalty of \$25 per day, maximum of \$1,000.
- Filing the quarterly or annual Financial Condition reports in the NMLS satisfies the financial statement requirement under Section 7(2) MBLSLA and/or Section 6a(2) SMLA.

### 3. License Renewal

- Filed through NMLS
  - License period 1/01 thru 12/31 (all licenses expire on 12/31 regardless of the date license is issued)
- Due on a date prescribed by the commissioner each year
  - A delinquent filing may be subject to a penalty of \$25 per day, maximum of \$1,000

### 4. Notice of Cybersecurity Event

- File this [notice](#) with DIFS as promptly as possible after suspecting and/or determining a cybersecurity event occurred involving nonpublic information.
- This form and attachments should be submitted as a single PDF document and sent to email address: [DIFS-FIN-INFO@michigan.gov](mailto:DIFS-FIN-INFO@michigan.gov)
  - Required per Section 12 of the Michigan Identity Theft Protection Act, Section 21(3) of the MBLSLA, and Section 6a(13) of the SMLA.

## Preferred Fields for Application Log

A list, preferably in Excel, of all Michigan mortgage loan applications received. Include the following fields:

- a. Loan originator name
- b. Loan originator NMLS ID#
- c. Processor name (individual)
- d. Processing entity (if applicable)
- e. Loan number
- f. Applicant first name
- g. Applicant last name
- h. Application date
- i. Date closed (if applicable)
- j. Status of application (closed, withdrawn, denied, in process, or rescinded)
- k. Property address (including street address and city)
- l. Property type (primary residence, secondary residence, investment)
- m. Loan amount
- n. Rate type (fixed, adjustable)
- o. High cost or higher-priced loan (if applicable)
- p. Lien position (first, second)
- q. Loan purpose (purchase, refinance, reverse, reverse purchase)
- r. Loan program (conventional, FHA, VA, HELOC, etc.)
- s. Branch office (if applicable)
- t. Lender of record, the entity to whom the note was initially payable
- u. Funder (if different than lender of record)
- v. Broker of record (if loan was brokered to lender)
- w. Compensation source (lender paid/borrower paid)
- x. For reverse mortgage origination, also include the following:
  - Principal limit
  - FHA case # assigned date
  - Product type (HECM Saver, HECM Standard, Proprietary)
  - Repairs after closing (Y/N)

## Additional Information

<p><b>Anti-Money Laundering Program Bank Secrecy Act 31 CFR 1029.210</b></p> <p><b><u>At a minimum, program should:</u></b></p> <ul style="list-style-type: none"><li>• Incorporate policies, procedures, and internal controls based upon the company's risk assessment<ul style="list-style-type: none"><li>• Policy should have a comprehensive customer due diligence requirement to obtain all relevant customer-related information</li><li>• Policy should implement an effective suspicious activity monitoring system</li></ul></li><li>• Designate a compliance officer to implement and update the program</li><li>• Provide on-going training (ensure training is documented)</li><li>• Provide independent testing to monitor and maintain an adequate program (ensure independent testing is documented)</li></ul>	<p><b>Information Security Program FTC Rules Part 314.3 &amp; 314.4</b></p> <p><b><u>The program should:</u></b></p> <ul style="list-style-type: none"><li>• Insure the security and confidentiality of customer information;</li><li>• Protect against any anticipated threats or hazards to the security or integrity of such information; and</li><li>• Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.</li></ul> <p><b><u>Refer to:</u></b></p> <ul style="list-style-type: none"><li>• The Safeguards Rule itself, which can be found at <a href="#">16 CFR Part 314</a>.</li><li>• The FTC's business guidance resource, <a href="#">FTC Safeguards Rule: What Your Business Needs to Know   Federal Trade Commission</a>.</li></ul>
<p><b>Identity Theft Prevention Program FTC Rules Part 681.1</b></p> <p><b><u>At a minimum, program should:</u></b></p> <ul style="list-style-type: none"><li>• Identify potential relevant red flags</li><li>• State how red flags will be detected</li><li>• State how red flags will be responded to, if detected</li><li>• Document and update the program periodically to reflect changes in risks to customers and the company</li><li>• Have board approval and involve an individual from senior management in the overall administration of the program</li><li>• Document evidence of training employees to implement the program</li><li>• Exercise appropriate and effective oversight of service provider arrangements</li></ul>	<p><b>Loan Officer Compensation Regulation Z 1026.25 &amp; 1026.36</b></p> <p><b><u>At a minimum:</u></b></p> <ul style="list-style-type: none"><li>• Create, maintain, and update MLO compensation agreements</li><li>• Retain all broker/lender compensation agreements</li><li>• Maintain records to document compensation paid to MLOs</li><li>• Maintain records to document broker compensation received</li><li>• Maintain records to show loan was in borrower's best interest</li><li>• Do not base compensation on any term of the transaction (except loan amount)</li><li>• Do not vary compensation after it is set without an unforeseen circumstance</li><li>• Avoid dual compensation</li><li>• Avoid steering for higher compensation</li></ul>

## Helpful Resources

Visit the DIFS Website - <http://www.michigan.gov/difs>

*You will find:*

- **Prohibition Orders** [Prohibition Orders \(michigan.gov\)](#)
- **How to file a complaint** [Filing a Complaint with DIFS \(michigan.gov\)](#)  
or send an email [DIFSComplaints@michigan.gov](mailto:DIFSComplaints@michigan.gov).
- **Statutes and Regulations** [TABLES OF STATUTES \(michigan.gov\)](#)
- **Mortgage FAQs:** [Mortgage FAQ \(michigan.gov\)](#)

### Additional Websites to reference:

[Code of Federal Regulations | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

[Learn more | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#) - links to Your home loan toolkit, Housing Counselors, CHARM Booklet, and HELOC Brochure

[Mortgage resources | Consumer Financial Protection Bureau \(consumerfinance.gov\)](#)

[NMLS Resource Center](#)

[Fighting Identity Theft with the Red Flags Rule: A How-To Guide for Business | Federal Trade Commission \(ftc.gov\)](#)

[SEC.gov | Anti-Money Laundering \(AML\) Source Tool for Broker-Dealers](#)

[FTC Safeguards Rule: What Your Business Needs to Know | Federal Trade Commission](#)