



THE IMPORTANCE OF A COMPLIANCE MANAGEMENT SYSTEM AND HOW TO DEVELOP AND MAINTAIN AN EFFECTIVE ONE

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Since the election of Donald Trump many banks and lenders have hoped that the regulatory landscape will look more favorable moving forward. While this may or may not be the case, there is no doubt that there have been direct signs from state regulators that they will be enhancing their oversight and taking an in-depth look at Compliance Management Systems (“CMS”) in upcoming examinations. Failure to maintain an effective CMS exposes a mortgage company to significant compliance risk.

Broadly defined, a CMS is a system which creates a culture of compliance within a mortgage company. When you break a CMS down into its core parts it should include the following components:

1. Compliance Governance;
2. A Compliance Program; and
3. A Complaint Management Process.

Compliance Governance

The Board of Directors and Executive Management are ultimately responsible for developing and administering a CMS that ensures compliance with all applicable federal and state rules and regulations. Further, an effective CMS must indicate that the Company’s Board and Executive Management understands and plays a role in the company’s compliance responsibilities and that those compliance responsibilities are effectively communicated to all employees.

By establishing policy and developing strategic plans, the Board and Executive Management are in a position to communicate the company’s compliance expectations throughout the company and to the company’s business partners. The Board and Executive Management must be well informed so that they can provide ongoing high-level direction to the compliance function. This may be accomplished by receiving and reviewing regular reports of compliance activities, identified issues and/or vulnerabilities, and corrective actions taken. Board and Executive Management oversight and involvement with compliance should be documented in meeting minutes and archived presentation materials.

Compliance Program

A sound compliance program is essential to a mortgage company's efficient and successful operation. A compliance program should be adequately documented and should generally include (i) written policies and procedures, (ii) training, and (iii) monitoring and corrective action.

Policies and Procedures

A mortgage company must maintain written policies and procedures that adequately reflect how the company operates and that promote compliance with all applicable federal and state rules and regulations. These policies should not be purchased, thrown on top of a file cabinet and then dusted off when a regulator shows up at your door. These policies must "live and breathe" in the manner your company operates day-by-day. It is critical that you customize any purchased policies and procedures to fit the manner upon which the company acts. It is also recommended that you regularly remind your employees of the location of your policies and procedures and other instructional material so that they can review and have an understanding of your company's expectations.

Training

Education of all staff, including Board members, is necessary to maintain an effective CMS. It is essential to develop a formal training program that can demonstrate which employees were assigned a specific course and that tracks whether and when an employee completed his/her required training. Further, training methods, implemented courses, and reporting should be discussed and reviewed by the Board and/or Executive Management. While customized training is an option there are many training companies that offer robust training programs at competitive prices which can be viewed by employees at their leisure and tracked for completion.

Monitoring and Corrective Action

A mortgage company must monitor and audit its compliance program in order to identify vulnerabilities and risk. The auditor should be independent of the business function being audited and should be knowledgeable and qualified to review the subject matter. Management should commence these monitoring practices across the board in all facets of the organization to identify any weaknesses in procedures which could result in harm to a consumer or result in

an examination finding. Any necessary changes should be immediately implemented.

Complaint Management

Consumer complaint management is another key component of a mortgage company's CMS. Complaint management assists mortgage companies in ensuring that consumers are treated fairly and in accordance with the law. The complaints management process should effectively identify and document consumer complaints and provide appropriate and timely resolution for consumers. The process should be designed to ensure that complaints are appropriately escalated when necessary and that internal corrective actions are implemented for complaints arising from ineffectiveness or failure in the company's internal processes. A complaint log should be maintained tracking items such as:

- Date of Complaint; Complaint Received from (i.e. Agency, such as the CFPB or a state regulator, the applicant);
- Branch Involved;
- Loan Originator / Account Executive Involved;
- Description of Complaint;
- Related Loan Number / Applicant Name;
- Description of Resolution and Corrective Action Taken (if any);
- Date of Resolution;
- Government Monitoring Information (for fair lending purposes); and
- Regulatory areas of concern (i.e. privacy, fair lending, etc.).

The complaint log can then be utilized to determine trends which are useful to determine where further training may be necessary.

The need for an effective CMS has been long established and it would be a mistake for any mortgage company to think that this need is going away or loosening up. From the outside, it certainly appears that state regulators are focusing on the CMS more and more each day.