



Connie Lawson
Secretary of State

Secretary of State State of Indiana Securities Division

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Securities Commissioner

LOAN BROKER EXAMINATION PROCESS AND PROCEDURES

Onsite Examination Program

The Indiana Secretary of State, Securities Division (“Division”) routinely conducts examinations of loan brokers licensed in the State of Indiana for compliance with the Indiana Code regarding loan brokers and Indiana Administrative Code. Under Ind. Code § 23-2.5-11-6(a)(5), the commissioner may “[c]onduct investigations and examinations.” Specifically, the code states that “[t]he commissioner, upon the basis of a complaint or information, that reasonable grounds exist for the belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.” I.C. § 23-2.5-11-6(a)(5)(B). While most examinations are scheduled in advance, the Division has the authority to conduct unannounced for-cause examinations at any time it is necessary for the protection of the public interest. The Commissioner may copy, and remove for examination copies of, all records the Commissioner reasonably considers necessary or appropriate to conduct the examination.

Prior to the Onsite Portion of the Examination

A licensed loan broker can expect routine examinations of its books, records, and loan origination files. Prior to the examination, the loan broker will be contacted by the loan broker examiner to schedule the date and time of the examination. The examiner will request in writing various documents, records, and forms from the loan broker for review. These will include policies and procedures, financial statements, personnel and lender lists, compensation agreements, examples of advertising and marketing, loan origination files, and the completed Loan Broker Examination Questionnaire. If warranted, additional documents and records may be requested to be made available during the onsite portion of the exam.

All documents, files, and records provided to the examiner by the loan broker will be thoroughly reviewed by the examiner before the onsite portion of the exam. The examiner will make notes of any

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items, parts of files, and questions that need clarification or further explanation during the onsite portion of the exam.

The Onsite Portion of the Examination

During the onsite portion of the examination, the examiner will take a quick tour of the office area, and then spend the majority of the time speaking with and interviewing the loan broker regarding the operation and conduct of the loan broker's business. The examiner may also interview other individuals in the organization at will. The examiner may request additional documents, records, and loan origination files for review during the onsite examination. If the records are maintained in electronic format, electronic copies may be provided to the examiner in lieu of hard copies. The examiner will be available to answer questions during the examination, but cannot provide legal advice. The length of the examination will vary depending on the complexity of the examination, but generally the onsite portion of the examination will not last more than one day. Key personnel must be available for the duration of the examination.

After the Examination

After the onsite portion of the examination is complete, the examiner may request additional documents or have follow up questions for the loan broker. Once the examiner has reviewed all the necessary documents and all outstanding questions have been addressed, the examiner will conclude the examination and issue the outcome of the examination. There are three possible outcomes to an examination: (1) No Action Letter; (2) Cautionary Letter; or (3) referred to Enforcement. A "No Action Letter," results from no violations of Indiana Code, Indiana Administrative Code, or supporting Federal Regulations. At this point, nothing further is needed from the loan broker. A "Cautionary Letter" will result if any violations of Indiana Code, Indiana Administrative Code, or supporting Federal Regulations were discovered during any part the loan broker examination process. The loan broker will have a reasonable amount of time to cure any violations found by the examiner. Once the violations have been remediated, the loan broker must notify the examiner of such in writing. Finally, more serious violations or failure to remediate any violations may be referred to Enforcement.

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Non-compliance

Failure to be prepared for or to cooperate with the loan broker examination program, or failure to timely and satisfactorily respond to a Cautionary Letter, may result in an enforcement action being taken against the loan broker and individuals associated with the loan broker.

Common Issues

These are some of the most common deficiencies and violations found during examinations:

1. **Loan Broker Agreement.** No loan broker agreement in the file; the wrong loan broker agreement; the loan broker agreement not signed by the borrower(s) within 3 days of the application date.
2. **Loan Note.** If the loan closed, no Loan Note is retained in the file.
3. **Rate-Lock Agreement.** Lack of a written rate-lock agreement or other confirmation signed by the borrower acknowledging giving the loan broker authority to lock the rate.
4. **Other Miscellaneous Disclosures.** File lacks required borrower disclosures, or disclosures not signed by the borrower. Examples include: subsequent Loan Estimate(s), initial Closing Disclosure, Affiliated Business Arrangement Disclosure, Servicing Transfer Disclosure, the Appraisal, record of all fees assessed to or collected from the borrower.
5. **Compliance Program.** Lack of or incomplete written Compliance Program/Manual. Minimum requirements include Quality Control, Red Flags, Handling Customer Complaints, File maintenance and storage, and Cybersecurity. The purchase of “off the shelf” compliance manuals is acceptable so long as the manual is regularly reviewed and amended to reflect the policies and procedures of the firm.