

## **Summary Table of Contents**

### **Getting Organized**

Chapter 1, Getting Organized and Adopting a Loan Policy

Chapter 2, Residential Mortgage Lending in a Nutshell

Chapter 3, Underwriting Guidelines

Chapter 4, Real Estate Appraisal Policies and Procedures

### **Loan Pricing, Approval, and Documentation**

Chapter 5, Loan Pricing

Chapter 6, A Risk Management System

Chapter 7, Loan Review

Chapter 8, Loan Approval

Chapter 9, Loan Documentation

Chapter 10, Establishing Effective Residential Construction Lending Practices

### **Special Concerns**

Chapter 11, Subprime Lending

Chapter 12, The Secondary Mortgage Market

Chapter 13, Avoiding Lender Liability Claims

Chapter 14, Preventing Environmental Liability

Chapter 15, Managing Regulatory Examinations

Chapter 16, Planning and Marketing

### **Problem Loans**

Chapter 17, Problem Loans

Chapter 18, Loan Loss Reserve Management

Chapter 19, OREO Management Policy and Procedures

**Regulatory Compliance**

Chapter 20, Member Privacy

Chapter 21, Regulatory Compliance

Chapter 22, Internet Activities

**Appendixes**

Appendix A, Glossary

Appendix B, Interagency Guidelines for Real Estate Lending Policies

Appendix C, Interagency Guidance on High LTV Residential Real Estate Lending

Appendix D, Interagency Guidance on Subprime Lending and Expanded Guidance for Subprime Lending Programs

Appendix E, Interagency Uniform Retail Credit Classification and Account Management Policy

# Contents

## Getting Organized

### Chapter 1 Getting Organized and Adopting a Loan Policy

Structure and Loan Policy .....	1 — 1
Purpose of Written Policies and Procedures .....	1 — 1
Loan Policy Content .....	1 — 3
Lending Limits and Credit Approval Authorities .....	1 — 5
Legal Lending Limit .....	1 — 5
General Lending Limit .....	1 — 5
Additional Lending Limits for Business Loans .....	1 — 5
Overall Limits for Business Loans .....	1 — 5
Limits on Business Loans to One Member or Group of Members .....	1 — 6
Risk-Adjusted Lending Limits .....	1 — 7
Credit Approval Authorities .....	1 — 8
Overdraft Authority .....	1 — 9
Incremental Authority .....	1 — 9
Credit Committee .....	1 — 9
The Chain of Command .....	1 — 10
Establish Loan Policy .....	1 — 11
Monitor and Control .....	1 — 12
Chief Executive Officer .....	1 — 14
Credit Committee .....	1 — 14
Mortgage Loan Production .....	1 — 15
Origination .....	1 — 15
Processing .....	1 — 15
Underwriting .....	1 — 16
Closing .....	1 — 16
Portfolio Management .....	1 — 16
Production Quality Control and Loan Review .....	1 — 17
Servicing .....	1 — 18
Compliance .....	1 — 21
Loan Approval and Review .....	1 — 22
Legal and In-House Lending Limits .....	1 — 22
Loan Authorities .....	1 — 22
Allowance for Loan Losses .....	1 — 22

Exhibit 1.1: Model Loan Policies ..... 1 — 24  
Exhibit 1.2: NCUA Rules and Regulations Part 701.21, Loans to Members and Lines of  
Credit to Members ..... 1 — 34  
Exhibit 1.3: NCUA Rules and Regulations Part 723, Member Business Loans ..... 1 — 45

## **Chapter 2**

### **Residential Mortgage Lending in a Nutshell**

Introduction ..... 2 — 1  
Types of Mortgage Loans ..... 2 — 3  
Loan Limits Based on Loan-to-Value Ratios ..... 2 — 5  
Equity and Cash Down Payments ..... 2 — 6  
    Secondary Financing ..... 2 — 7  
    “Sweat Equity” or Rental Credit ..... 2 — 7  
Mortgage Insurance ..... 2 — 7  
    Conflicts of Interest ..... 2 — 8  
    Extent of Coverage ..... 2 — 8  
    Regulatory Limitations ..... 2 — 8  
Occupancy ..... 2 — 8  
Type of Structure ..... 2 — 9  
Property Underwriting Standards ..... 2 — 9  
    Neighborhood Analysis ..... 2 — 10  
    Site Analysis ..... 2 — 10  
    Analysis of Improvements ..... 2 — 11  
    Age of the Property ..... 2 — 12  
    Design and Construction Concerns ..... 2 — 12  
    Valuation Analysis ..... 2 — 12  
Term and Interest Rate ..... 2 — 13  
Amortization ..... 2 — 14  
Reverse Mortgage Loans ..... 2 — 14  
Origination ..... 2 — 14a  
Notes and Mortgage Instruments ..... 2 — 14a  
Title Insurance and Other Title Evidence ..... 2 — 14a  
Designation of Escrow (Loan Closing) Agent ..... 2 — 16  
Hazard Insurance Requirements ..... 2 — 17  
    Scope and Amount of Coverage ..... 2 — 17  
    Scope and Amount of Coverage Required for Condominium Units ..... 2 — 17  
    Mortgagee Clause Endorsement ..... 2 — 18  
Survey Requirements ..... 2 — 18  
Flood Hazard Insurance ..... 2 — 19  
Flood Insurance Policy ..... 2 — 19  
    Implementation of Flood Insurance Requirements ..... 2 — 20  
    Special Requirements Applicable to Condominium Units ..... 2 — 20

Underwriting the Condominium Unit Mortgage .....	2 — 20
Underwriting Condominium Projects .....	2 — 22
Developer/Sponsor Interests .....	2 — 22
Legal Compliance .....	2 — 22
General Project Characteristics .....	2 — 23
Project Size .....	2 — 24
Parking Facilities .....	2 — 25
Energy Efficiency and Heating Plant .....	2 — 25
Sound Transmission Limitations .....	2 — 25
Real Estate Tax Escrows .....	2 — 26
Mortgagor’s Right of Rescission (Refinance Transactions Only) .....	2 — 26
Issuing the Mortgage Loan Commitment .....	2 — 26
Commitment Period .....	2 — 27
Reissuance of Commitment .....	2 — 27
Commitment Deposit .....	2 — 27
Exhibit 2.1: Donor’s Gift Affidavit .....	2 — 28
Exhibit 2.2: Borrower’s Affidavit Regarding No Junior Financing Required .....	2 — 29
Exhibit 2.3: First Mortgage Loan Commitment .....	2 — 30

### **Chapter 3**

## **Underwriting Guidelines**

Basic Principles .....	3 — 1
Underwriting Mortgage Loans .....	3 — 1
Receiving a Loan Application .....	3 — 2
Credit Application .....	3 — 4
Age, Income, and Employment .....	3 — 4
Residence .....	3 — 5
Debt-to-Income Ratios .....	3 — 5
Credit History .....	3 — 5
Loan Documentation .....	3 — 7
The Application Interview .....	3 — 7
Childbearing or Birth Control Plans .....	3 — 8
Source of Income .....	3 — 8
Marital Status .....	3 — 8
Restricted Questions .....	3 — 8
Questions for Monitoring Purposes .....	3 — 9
Repayment Ability .....	3 — 9
Employment Stability .....	3 — 10
Income Sources .....	3 — 11
Income from Rental Property .....	3 — 11
Other Real Estate Assets .....	3 — 12
Other Income and Income from Self-Employment .....	3 — 12

Alimony, Child Support, or Separate Maintenance Payments.....	3 — 12
Age of Applicant(s).....	3 — 12
Assets.....	3 — 13
Liabilities and Payment Record.....	3 — 13
Net Worth.....	3 — 14
Credit Scoring.....	3 — 14
Guidance on Home Equity Lending.....	3 — 17
Guidance on Nontraditional Mortgage Lending.....	3 — 18
Managing Risk.....	3 — 18
Disclosure Requirements.....	3 — 20
Exhibit 3.1A: Residential Home Mortgage Loan Application Form and Instructions.....	3 — 25

## Chapter 4

### Real Estate Appraisal Policies and Procedures

Selecting Approved Appraisers.....	4 — 1
Appraisal Approaches.....	4 — 1
The Cost Approach.....	4 — 1
The Income Approach.....	4 — 2
The Sales Comparison Approach.....	4 — 2
Final Estimate of Value.....	4 — 3
Regulatory Requirements for Certified and Licensed Appraisers.....	4 — 3
When Neither a State-Certified Nor State-Licensed Appraiser Is Required.....	4 — 3
Minimum Appraisal Standards.....	4 — 5
Appraisal Foundation Standards.....	4 — 5
Written Appraisal.....	4 — 5
Analysis of Deductions and Discounts.....	4 — 5
Market Value.....	4 — 5
Prospective Values.....	4 — 5
Unsafe and Unsound Appraisal Practices and Policies.....	4 — 6
Hurricane Relief.....	4 — 6a
Selection of Appraisers.....	4 — 6a
Real Estate Appraisal Reviews.....	4 — 7
Reappraisal Policies.....	4 — 7
Construction Loan Appraisals.....	4 — 8
Problem Loans and OREO Appraisal Policies.....	4 — 8
Model Appraisal Engagement Letters and Attachments.....	4 — 8
Summary of Federal Regulatory Guidelines.....	4 — 8
Exhibit 4.1: Real Estate Appraisal Review Form.....	4 — 9
Exhibit 4.2: Model Real Estate Appraisal Engagement Letter.....	4 — 11
Exhibit 4.3: Summary of Federal Regulatory Appraisal Guidelines.....	4 — 23

Exhibit 4.4: NCUA Letter to Credit Unions 03-CU-17 Re: Independent Appraisal and Evaluation Functions for Real Estate-Related Transactions ..... 4 — 32

Exhibit 4.5: NCUA Rules and Regulations Part 722, Appraisals..... 4 — 47

## Loan Pricing, Approval, and Documentation

### Chapter 5 Loan Pricing

Interest Rate Risk Management ..... 5 — 2

Loan Portfolio Mix Policy ..... 5 — 2

Loan Portfolio Structuring Policy ..... 5 — 3

Loan Operating Costs ..... 5 — 4

Understanding Loan Portfolio Income and Expenses..... 5 — 4

FCAB’s Real Estate Loans — Incomes and Expenses..... 5 — 4

Home Mortgage Loans ..... 5 — 5

Construction and/or Land Development Loans..... 5 — 5

Commercial Real Estate ..... 5 — 5

Home Equity Loans..... 5 — 5

FCAB’s Cost of Funds ..... 5 — 5

Allocating All Credit Union Costs Across All Credit Union Products and Services ..... 5 — 6

Loan Pricing..... 5 — 6

Loans Establish a Relationship..... 5 — 7

Value ..... 5 — 7

Competition ..... 5 — 7

Costs ..... 5 — 7

Loan Pricing Model ..... 5 — 7

Cost of Funds..... 5 — 8

The Cost of Funds Used in Our Loan Pricing Model ..... 5 — 9

Loan Administrative Cost..... 5 — 9

Loan Loss Reserves ..... 5 — 9

Formula Factors ..... 5 — 9

Pricing Mortgage Loans Using the Model..... 5 — 10

Applying the Model..... 5 — 10

Pipeline, Warehouse, and Hedging ..... 5 — 11

Pipeline Management ..... 5 — 11

Hedging the Pipeline Against Fallout..... 5 — 12

Warehouse Management ..... 5 — 12

Hedging the Warehouse..... 5 — 13

Exhibit 5.1: FCAB’s Asset Volume, Incomes, Expenses, and Earnings (000s)..... 5 — 14

Exhibit 5.2: FCAB’s Balance Sheet and Income Statement..... 5 — 15

Exhibit 5.3: Summary Chart; FCAB’s Volumes, Incomes, Expenses, and Earnings..... 5 — 16

Exhibit 5.4: FCAB’s Cost of Funds..... 5 — 17  
Exhibit 5.5: FCAB’s Cost of Deposits ..... 5 — 18  
Exhibit 5.6: Formula for Pricing Loans..... 5 — 19  
Exhibit 5.7: Pricing the Loan..... 5 — 20

## **Chapter 6**

### **A Risk Management System**

Risk Identification..... 6 — 1  
    Ten Categories of Risk ..... 6 — 1  
    Mortgage Loan Risks..... 6 — 3  
    Management Risks..... 6 — 5  
Aggregate Exception Tracking and Reporting..... 6 — 5  
Using a Risk Management Matrix ..... 6 — 6  
Risk Ownership and Risk Management Responsibilities ..... 6 — 8  
    Your Risk Management Responsibilities ..... 6 — 8  
    Risk Management Owners’ Responsibilities..... 6 — 9  
Descriptions of Specific Risks and Their Controls..... 6 — 9  
    Risk Name, Owner Name, Date..... 6 — 9  
    Risk Description ..... 6 — 9  
    Existing Controls Description..... 6 — 10  
    Alternative Controls Discussion ..... 6 — 10  
    Other Changes Needed ..... 6 — 11  
    Training Needs..... 6 — 11  
    Detailed Description of the New Risk Control System ..... 6 — 11  
Stress Testing and Management Information Systems ..... 6 — 11  
    Exhibit 6.1: Common Problem Areas..... 6 — 13

## **Chapter 7**

### **Loan Review**

Management Controls..... 7 — 1  
Loan Review Policy and Objectives ..... 7 — 3  
Determining Loan Portfolio Status ..... 7 — 4  
    Watch List..... 7 — 4  
    Functions of the Loan Review Officer ..... 7 — 4  
Loan Review Procedures ..... 7 — 5  
    New Loans..... 7 — 6  
    Previously Reviewed Loans ..... 7 — 6  
    Compliance Loan Review..... 7 — 7

Loan Documentation Review .....	7 — 7
Exhibit 7.1: Mortgage Loan Review Worksheet .....	7 — 8
Exhibit 7.2: Loan Application Checklist .....	7 — 9
Exhibit 7.3: Loan Documentation Checklist .....	7 — 13

## **Chapter 8**

### **Loan Approval**

Levels of Loan Approval Authority .....	8 — 1
Individual Loan Authority System .....	8 — 2
Classified Borrowers .....	8 — 4

## **Chapter 9**

### **Loan Documentation**

Importance of Loan Documentation .....	9 — 1
Commitment Letters .....	9 — 2
Prequalifications and Preapprovals .....	9 — 3
Commitment Letter Contents .....	9 — 4
Documenting Mortgage Loans .....	9 — 5
Mortgage Loans .....	9 — 5
Required Forms .....	9 — 5
Good Faith Estimates, Disclosure of Mortgage Loan Servicing Rights .....	9 — 6
Appraisals .....	9 — 6
Search of Records .....	9 — 6
Loan Closing .....	9 — 7
Filings/Recordings .....	9 — 7
Perfection of Security Interest .....	9 — 7
Arbitration .....	9 — 7
Exhibit 9.1: Loan Documentation Checklist .....	9 — 9
Exhibit 9.2: One- to Four-Family Residential Lending Documentation Charts .....	9 — 11

## **Chapter 10**

### **Establishing Effective Residential Construction Lending Practices**

Underwriting Goals and Loan Structuring .....	10 — 2
Risks Unique to Construction Lending .....	10 — 3
Establishing the Project Budget .....	10 — 4
Compliance with Governmental Regulations .....	10 — 5
The Possible Need for Soil Engineering Studies .....	10 — 6
The Design of the Project .....	10 — 6
Reviewing the Contractor and the Construction Contract .....	10 — 7
Evaluation of the Contractor .....	10 — 7
Analysis of Contract Costs .....	10 — 8
Insurance .....	10 — 9
Monitoring the Progress of Construction .....	10 — 9
Title Issues .....	10 — 10
Construction Contract Issues .....	10 — 10
Change Orders .....	10 — 10
Stored Materials .....	10 — 11
Monitoring Progress .....	10 — 11
Borrower Issues .....	10 — 12
Requirements for Providers of Inspection Services .....	10 — 12
The Initial Project Review .....	10 — 12
Field Visit Report — Requisition Review .....	10 — 14
Review of Borrower’s Application for Loan Disbursement .....	10 — 14
Application for Disbursement .....	10 — 14
Stored Materials .....	10 — 14
Change Orders .....	10 — 14
Contract Status .....	10 — 14
Construction Activities and Progress Analysis .....	10 — 15
Photographs .....	10 — 15
The Construction Loan Agreement .....	10 — 15
Exhibit 10.1: Sample Single-Family Residential Construction Loan Agreement .....	10 — 16
Exhibit 10.2: Schedule A Single-Family Residential Construction Loan Agreement .....	10 — 22

## Special Concerns

### Chapter 11 Subprime Lending

Background.....	11 — 1
Federal Regulatory Guidance .....	11 — 1
Predatory Lending Concerns .....	11 — 2
Borrower Consequences .....	11 — 5
Prudent Underwriting .....	11 — 5
Disclosures .....	11 — 5
Internal Controls.....	11 — 6
Compensation.....	11 — 6
Extension to Non-Subprime Lending.....	11 — 6
Workout.....	11 — 7
Consumer Protection .....	11 — 7
Arbitration Clauses .....	11 — 7
Capitalization .....	11 — 8
Risk Management .....	11 — 8
Planning and Strategy .....	11 — 8
Staff Expertise .....	11 — 8
Lending Policy.....	11 — 9
Purchase Evaluation.....	11 — 10
Loan Administration Procedures .....	11 — 11
Loan Review and Monitoring.....	11 — 11
Consumer Protection .....	11 — 12
Policies Addressing Risk of Abusive Practices .....	11 — 16
Securitization and Sale .....	11 — 17
Reevaluation .....	11 — 18
Special Note — Third-Party Originators and Predatory or Abusive Lending.....	11 — 19
Loss Mitigation Strategies for Servicers of Subprime Loans .....	11 — 20
Proposed Truth-in-Lending Changes.....	11 — 20b
Higher-Priced Mortgage Loans .....	11 — 20b
Protections for All Closed-End Loans Secured by Principal Dwelling.....	11 — 20e
Advertising .....	11 — 20f
Earlier Transaction-Specific Disclosures .....	11 — 20j
Exhibit 11.1: NCUA Letter to Credit Unions 99-CU-05 Re: Risk-Based Lending .....	11 — 21

## Chapter 12

### The Secondary Mortgage Market

The Evolution of the National Secondary Mortgage Market.....	12 — 1
Central Marketplace Needed .....	12 — 2
Congress Creates a Secondary Mortgage Market.....	12 — 2
Fannie Mae .....	12 — 3
Freddie Mac .....	12 — 3
Ginnie Mae .....	12 — 4
Role of the Secondary Market .....	12 — 4
Pass-Through Securities.....	12 — 5
Ginnie Maes.....	12 — 5
Freddie Macs .....	12 — 6
Fannie Maes.....	12 — 6
Private Pass-Throughs .....	12 — 6
Growth of Pass-Throughs in the 1980s.....	12 — 7
Collateralized Mortgage Obligations .....	12 — 8
Mortgage Servicing Rights .....	12 — 8
Purchased Mortgage Servicing Rights.....	12 — 8
Originated Mortgage Servicing Rights .....	12 — 9
Documentation and Recordkeeping.....	12 — 10
Valuation and Amortization .....	12 — 10
Initial Recordation of Servicing.....	12 — 11
Amortization of Mortgage Servicing Rights .....	12 — 12
Impairment Analysis.....	12 — 12
Excess Servicing Fee Receivables.....	12 — 13
Documentation and Recordkeeping.....	12 — 14
Valuation and Amortization .....	12 — 14
Impairment Analysis .....	12 — 15
Hedging Mortgage Servicing Assets .....	12 — 16
Interagency Advisory on Accounting and Reporting for Commitments to Originate and Sell Mortgage Loans.....	12 — 17
Getting Started with Fannie and Freddie .....	12 — 18
Secondary Marketing Department .....	12 — 18
Program Approval .....	12 — 19
Application Package .....	12 — 21
Using Secondary Market Tools in Managing Portfolio Risk.....	12 — 21
Seller’s Warranties.....	12 — 22
“Investment Quality” According to Secondary Market Standards .....	12 — 26
Underwriting Guidelines .....	12 — 27
Ability to Repay the Debt.....	12 — 27
Willingness to Repay the Debt.....	12 — 27
Underwriting the Property.....	12 — 27
Documentation.....	12 — 28
Loan Review and Quality Control.....	12 — 28

Conforming Loans .....	12 — 28
Nonconforming Loans .....	12 — 29
Loan Product Eligibility .....	12 — 30
Risk Management Strategies.....	12 — 31
Over-the-Counter Immediate Delivery Cash Loan Purchase Programs .....	12 — 32
Commitment Contract Pricing .....	12 — 33
The Profitability of Loan Servicing — A Mortgage Banking View of Loan Servicing.....	12 — 36
Whole Loan Sale vs. Participation.....	12 — 39
Whole Loan Sales .....	12 — 39
Participation Loan Sales .....	12 — 39
Exhibit 12.1: Interagency Advisory on Accounting and Reporting for Commitments to Originate and Sell Mortgage Loans.....	12 — 41

## **Chapter 13**

### **Avoiding Lender Liability Claims**

Introduction.....	13 — 1
Mortgage Lenders’ Code of Conduct.....	13 — 1
The Loan Commitment and Loan Documentation.....	13 — 3
Advertising .....	13 — 3
Application and Application Disclosures .....	13 — 3
The Loan Commitment.....	13 — 4
Selected Lending Provisions.....	13 — 4
Discretionary Advances.....	13 — 5
Termination of the Lending Commitment.....	13 — 5
No Material Adverse Change .....	13 — 5
Guaranties .....	13 — 5
Arbitration .....	13 — 5
Loan Administration and Servicing .....	13 — 6
Carefully Monitor Problem Loans.....	13 — 6
Prepare the File Correctly .....	13 — 6
Course of Conduct Counts.....	13 — 6
Workout .....	13 — 7
Taking Action: Some General Rules of Conduct .....	13 — 7
Exhibit 13.1: Lender Liability Checklist .....	13 — 9

## **Chapter 14**

### **Preventing Environmental Liability**

CERCLA.....	14 — 1
Definitions Under CERCLA.....	14 — 1
How to Handle Loans in Default .....	14 — 3
Good Appraisal Practices.....	14 — 3
Environmental Audits.....	14 — 4
Phase 1 Environmental Audits.....	14 — 4
Historical Use Records Review.....	14 — 4
Regulatory Agency Review.....	14 — 4
Site Inspection.....	14 — 4
Phase 2 and Phase 3 Activities .....	14 — 4
Lender Personnel Can Perform Limited Audits.....	14 — 5
Foreclosure .....	14 — 5
Recommended Policy .....	14 — 5
Board Actions .....	14 — 6
Exhibit 14.1: Environmental Protection Compliance Checklist.....	14 — 7
Exhibit 14.2: Model Board Policy Statement on Environmental Risk Control.....	14 — 8

## **Chapter 15**

### **Managing Regulatory Examinations**

Coping with Regulatory Examinations.....	15 — 1
Preparing for the Examination.....	15 — 1
Know the Portfolio .....	15 — 1
Problem Loans.....	15 — 2
Frequent Discrepancies.....	15 — 2
Missing Appraisals.....	15 — 2
During the Examination.....	15 — 2
Treat the Examiners Respectfully.....	15 — 2
Stay Cool .....	15 — 2
Correct Deficiencies Immediately .....	15 — 2
Prepare for Discussions .....	15 — 3
Near the End of the Examination.....	15 — 3
If the Lender Is Part of a Problem Financial Institution.....	15 — 3
How the Process Usually Starts.....	15 — 4
Regulatory Remedial Actions.....	15 — 5
Summary and Conclusions .....	15 — 7
Exhibit 15.1: Regulatory Guidelines Regarding Loan Activities.....	15 — 8

## Chapter 16 Planning and Marketing

The Mission Statement .....	16 — 1
Statements of Goals .....	16 — 2
External Goals .....	16 — 2
Internal Goals.....	16 — 2
Loan Portfolio Goals.....	16 — 2
Analyzing the External Operating Environment.....	16 — 3
The Economic and Financial Environment .....	16 — 3
Legal and Regulatory Considerations.....	16 — 4
The Competitive Environment.....	16 — 4
The Internal Operating Environment.....	16 — 4
The Owners (Members) and the CEO .....	16 — 4
How You Are Organized.....	16 — 4
Your Staff.....	16 — 4
Products and Services .....	16 — 5
The Service You Are Offering vs. Member Needs .....	16 — 5
Pricing .....	16 — 5
Geographic Marketing Area .....	16 — 5
Training Needs .....	16 — 5
SWOT Analysis .....	16 — 5
Strengths .....	16 — 5
Weaknesses.....	16 — 6
Opportunities .....	16 — 6
Threats .....	16 — 6
Completing Your Plan .....	16 — 6
Statements of Primary Objective .....	16 — 7
Strategies to Achieve the Primary Objective.....	16 — 7
Action Plans to Implement the Strategies.....	16 — 7
Other Objectives, Strategies, and Action Plans .....	16 — 7
Summarizing Your Plan.....	16 — 7
The Marketing Program.....	16 — 8
Sales vs. Credit Quality.....	16 — 8
Developing a Lending/Marketing Strategy.....	16 — 9

## **Problem Loans**

### **Chapter 17 Problem Loans**

Introduction.....	17 — 1
Fair Debt Collection Practices Act.....	17 — 1
Late Notices and Delinquency Fees.....	17 — 2
Working Delinquent Accounts.....	17 — 3
Ledger Cards.....	17 — 3
Telephone Procedures.....	17 — 3
Promises to Pay.....	17 — 4
Follow-Up.....	17 — 4
Borrower Not at Home .....	17 — 4
Chronic Delinquents .....	17 — 5
Unemployment .....	17 — 5
Illness or Death.....	17 — 5
Cosigner or Guaranteed Loans .....	17 — 6
Extensions and Rewrites.....	17 — 6
Foreclosures .....	17 — 7
Loan Delinquencies and Charge-Offs.....	17 — 7
Working with Strapped Borrowers .....	17 — 8
Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages.....	17 — 9
Exhibit 17.1: Summary of Fair Debt Collection Practices Act .....	17 — 10
Exhibit 17.2: Request for Charge-Off .....	17 — 17

### **Chapter 18 Loan Loss Reserve Management**

Regulatory Policy on Allowance for Loan and Lease Losses.....	18 — 1
Statement of Policy on Maintaining Reserves for Loan Losses .....	18 — 1
The Loan Loss Reserve Adequacy File .....	18 — 2
Senior Credit Officer Responsibilities.....	18 — 2
Finance Officer Responsibilities.....	18 — 3
Risk Identification.....	18 — 3
The Loan Loss Reserve Evaluation and Calculation System.....	18 — 3
Net Present Value Calculation Procedures .....	18 — 4
Exhibit 18.1: Accounting for Impaired and Restructured Loans.....	18 — 5
Exhibit 18.2: Present Value Analysis.....	18 — 9

## Chapter 19 OREO Management Policy and Procedures

Definitions .....	19 — 1
Other Real Estate Owned Acquisition Procedures.....	19 — 1
OREO Administration and Accounting Procedures .....	19 — 2
Expenses .....	19 — 2
Income .....	19 — 2
OREO Appraisals .....	19 — 2
General Ledger Account Adjustments.....	19 — 3
Board Reports .....	19 — 3
Accounting for OREO Sales.....	19 — 3
Holding Period.....	19 — 4
Disposal of OREO Property.....	19 — 4

## Regulatory Compliance

### Chapter 20 Member Privacy

A Regulatory Hot Button.....	20 — 1
Gramm-Leach-Bliley Act Privacy Provisions .....	20 — 1
Scope .....	20 — 2
Specific Privacy Rules Resulting from GLBA .....	20 — 2
Privacy Policy — Initial Notice.....	20 — 2
Delivery Requirements.....	20 — 4
Short-Form Notice.....	20 — 5
Privacy Policy — Annual Notice.....	20 — 5
Privacy Notices — Content and Sample Language.....	20 — 6
Streamlined Disclosure.....	20 — 9
Future Disclosures .....	20 — 9
Opt-Out Notice and Rights.....	20 — 10
Partial Opt-Out .....	20 — 10
Content .....	20 — 10
Joint Consumers .....	20 — 11
Other Rules .....	20 — 11
Revised Privacy Notice.....	20 — 12
Disclosure and Reuse of Information .....	20 — 12
Disclosure of Account Numbers.....	20 — 14
Exceptions to Notice and Opt-Out Requirements.....	20 — 14

Service Providers and Joint Marketing.....	20 — 14
Processing and Servicing Consumer Transactions.....	20 — 15
Other Regulatory Exceptions.....	20 — 15
Security Guidelines.....	20 — 16
Involvement of the Board of Directors.....	20 — 17
Assessment of Risk.....	20 — 17
Management and Control of Risk.....	20 — 18
Oversight of Service Provider Arrangements.....	20 — 19
Adjustment of the Program.....	20 — 19
Report to the Board of Directors.....	20 — 19
Implementation.....	20 — 19
Response to Privacy Intrusions.....	20 — 20
Compliance Guide.....	20 — 22
The Right to Financial Privacy Act.....	20 — 23
General Requirements.....	20 — 23
Procedures for Obtaining Information.....	20 — 24
Delaying the Customer Notice.....	20 — 27
Customer Challenge.....	20 — 28
Exclusions.....	20 — 28
Children’s Online Privacy Protection Act.....	20 — 30
The Privacy Act of 1974.....	20 — 31
USA PATRIOT Act.....	20 — 31
FinCEN Requests.....	20 — 31
CIP Procedures.....	20 — 32
Verifying the Identity.....	20 — 32
Recordkeeping.....	20 — 34
List Checking.....	20 — 34
Member Notice.....	20 — 35
Reliance on Another Financial Institution.....	20 — 35
CAN-SPAM Act.....	20 — 35
Samples and Checklists.....	20 — 36
Exhibit 20.1: Sample Privacy Policies.....	20 — 37
Exhibit 20.2: Gramm-Leach-Bliley Act Privacy Provisions Checklist.....	20 — 43
Exhibit 20.3: Model Disclosure Clauses from the Regulation.....	20 — 47

## Chapter 21 Regulatory Compliance

Real Estate Settlement Procedures Act.....	21 — 2
Disclosures.....	21 — 2
HUD and Fed Booklets.....	21 — 2
Controlled (or Affiliated) Business Arrangement Disclosure.....	21 — 3
Application Servicing Transfer Notice.....	21 — 3

Good Faith Estimate .....	21 — 3
GFE Requirements and Fair Lending Compliance.....	21 — 3
Required Providers .....	21 — 4
Uniform Settlement Statement (HUD-1 or HUD-1A).....	21 — 4
Closing Escrow Disclosure.....	21 — 4
Annual Escrow Account Statements .....	21 — 4
Notice of Servicing Transfer Disclosure .....	21 — 4
Rules Governing Behavior .....	21 — 5
Prohibitions of Kickbacks and Referral Fees .....	21 — 5
Mark-up Charges .....	21 — 5
Seller May Not Require a Particular Title Company.....	21 — 6
Fee for Preparing RESPA Disclosures .....	21 — 6
Escrow Limitations.....	21 — 6
Transfer of Servicing.....	21 — 6
Affiliated Business Arrangements.....	21 — 7
The Truth-in-Lending Act.....	21 — 7
Annual Percentage Rates .....	21 — 8
Truth-in-Lending Disclosure .....	21 — 8
Disclosures in Advertisements and Applications .....	21 — 10
Required Disclosures of “Amount” .....	21 — 12
Adjustable-Rate Mortgage Loan Disclosure.....	21 — 12
Right to Cancel .....	21 — 12
General Exception to Right to Cancel for Purchase Money Loans and On-Us Refinances .....	21 — 13
Effect of Cancellation .....	21 — 13
Notice of Right to Cancel .....	21 — 13
Waivers.....	21 — 13
Section 32 Mortgage Loans .....	21 — 14
Exempt Transactions .....	21 — 16
Points and Fees .....	21 — 16
Enforcement.....	21 — 16a
The Equal Credit Opportunity Act.....	21 — 16a
Basic Terminology and Definitions.....	21 — 16a
Discriminate .....	21 — 16a
Credit.....	21 — 16a
Assumptions .....	21 — 17
Creditor.....	21 — 17
Prohibited Bases .....	21 — 17
Discriminatory Effect and Effects Test .....	21 — 18
Prohibited Discrimination by Association.....	21 — 19
Discouraging Applications/Affirmative Advertising.....	21 — 19
Notice Requirements in Connection with Applications.....	21 — 19
General Notification Requirements .....	21 — 19
Applications Submitted Through a Third Party .....	21 — 20
Notice Requirements for Completed Applications.....	21 — 20
Notice of Approval .....	21 — 20
Notice of Decline.....	21 — 20
Counteroffer .....	21 — 21

Notice Requirements for Incomplete Applications .....	21 — 21
Meaning of the Term “Application” .....	21 — 22
Application .....	21 — 22
Lender’s Procedures .....	21 — 22
Evaluation of Borrower Information .....	21 — 22
When Does an Inquiry Become an Application? .....	21 — 22
Prequalifications .....	21 — 23
Submission of Information in Anticipation of a Credit Decision .....	21 — 24
Inquiries vs. Applications .....	21 — 24
Consumer Focus .....	21 — 24
Consumer Acknowledgment .....	21 — 25
Differing Regulatory Definitions .....	21 — 25
Notices of Adverse Action Outside the Application Context .....	21 — 26
Clarification .....	21 — 28
Copies of Appraisal Reports .....	21 — 28
Notice .....	21 — 28
Reimbursement for Cost of Appraisal .....	21 — 28
Delivery of Notice .....	21 — 28
Definitions .....	21 — 29
Renewals .....	21 — 29
Specific Rules for Taking Applications .....	21 — 29
Child Bearing .....	21 — 29
Alimony .....	21 — 30
Income .....	21 — 30
Government Monitoring .....	21 — 30
Applications Not Taken Face to Face .....	21 — 31
Loan Shopping Services .....	21 — 31
Spouse .....	21 — 31
Alimony, Child Support, or Separate Maintenance .....	21 — 32
Marital Status .....	21 — 32
Indirect Disclosure .....	21 — 32
Sex; Titles .....	21 — 33
Aliens .....	21 — 33
Affirmative Action .....	21 — 33
Determining Need .....	21 — 34
Elements of the Program .....	21 — 34
Special Rule in the Case of Financial Need .....	21 — 34
Written Applications — Residential Mortgage Loans .....	21 — 34
Telephone Applications .....	21 — 35
Computerized Entry .....	21 — 35
Specific Rules for Evaluating Applications .....	21 — 35
General Rule Concerning Use of Information .....	21 — 35
Individual vs. Joint Applicants .....	21 — 35
Specific Rules .....	21 — 36
Marital Status .....	21 — 36
Telephones .....	21 — 36
Credit History .....	21 — 36

Insurance/Age.....	21 — 37
Age — Credit Scoring System .....	21 — 37
Age — Judgmental System .....	21 — 38
Age — Combined System .....	21 — 38
Child Bearing.....	21 — 39
Treatment of Income .....	21 — 39
State Property Laws.....	21 — 40
Specific Rules for Opening and Servicing Loans .....	21 — 40
Names .....	21 — 40
Change in Status/Home Equity Credit Lines.....	21 — 40
Signatures .....	21 — 41
Exception.....	21 — 41
State Law Requirements for Enforceable Lien.....	21 — 41
Integrated Instrument.....	21 — 41
Home Equity Credit Lines — Non-Applicant User .....	21 — 42
Cosigners .....	21 — 42
Qualification of Additional Parties.....	21 — 42
Reliance on Income of Another Person — Individual Credit.....	21 — 42
Renewal .....	21 — 42
Guaranties .....	21 — 43
Furnishing Credit Information — Designation of Accounts .....	21 — 43
Furnishing Credit Information — Routine Reports to Credit Bureau .....	21 — 43
Furnishing Credit Information — Reporting in Response to Inquiries .....	21 — 43
Furnishing Credit Information Is Voluntary.....	21 — 43
Joint Accounts .....	21 — 43
Designating Accounts.....	21 — 43
Preemption of State Law .....	21 — 44
State Exemptions .....	21 — 44
Recordkeeping .....	21 — 45
Special Rule for Certain Business Credit Applications.....	21 — 45
Copies of Documents .....	21 — 45
Self-Testing Privilege .....	21 — 46
Scope of Corrective Action .....	21 — 48
Loss of Privilege.....	21 — 49
Electronic Disclosures .....	21 — 50
Consent .....	21 — 50
Timing .....	21 — 51
Form the Consumer Can Retain.....	21 — 52
Fair Lending.....	21 — 52
The Fair Housing Act .....	21 — 53
The Home Mortgage Disclosure Act.....	21 — 53
Equal Credit and Fair Housing .....	21 — 56
Types of Discrimination .....	21 — 57
Disparate Treatment.....	21 — 57
Overt Evidence of Disparate Treatment.....	21 — 58
Comparative Evidence of Disparate Treatment.....	21 — 58
Disparate Impact.....	21 — 59

Data Collection and Reporting .....	21 — 59
Regulatory Review .....	21 — 59
Statistical Analysis.....	21 — 60
Pricing.....	21 — 60
Review of Denials.....	21 — 60
Penalties.....	21 — 60
Mortgage Insurance and the Homeowners Protection Act .....	21 — 61
The Fair Credit Reporting Act .....	21 — 61
Adverse Action .....	21 — 62
Permissible Purpose for Obtaining Credit Report .....	21 — 62
Information About Applicant’s Spouse .....	21 — 63
Providing Information to Others.....	21 — 63
Information Provided to Affiliates.....	21 — 63
Vendors and Consumers.....	21 — 64
Providing Information to Credit Reporting Agencies.....	21 — 64
Accurate Reporting.....	21 — 64
Disputed Information.....	21 — 65
Closed Accounts; Delinquent Loans .....	21 — 65
Consumer Disputes.....	21 — 65
Providing Information to Affiliates .....	21 — 66
Prescreening.....	21 — 66
Investigative Consumer Reports.....	21 — 67
Additional FACT Act Responsibilities.....	21 — 68
Credit Scores .....	21 — 69
Risk-Based Pricing Notice .....	21 — 70
Medical Information.....	21 — 72
Sharing Medical Information with Affiliates .....	21 — 74
Notice of Furnishing Negative Information .....	21 — 75
Fraud Alerts.....	21 — 76
Truncation of Credit Card and Debit Card Account Numbers .....	21 — 76
Disposal of Consumer Credit Information .....	21 — 76
Information Available to Identity Theft Victims.....	21 — 77
Blocking of Information Relating to Identity Theft .....	21 — 78
Prohibition on Sale or Transfer of Debt Caused by Identity Theft.....	21 — 79
Third-Party Debt Collectors Communications Concerning Identity Theft .....	21 — 79
Red Flag Regulations on Identity Theft .....	21 — 80
Examination Procedures .....	21 — 80
The Fair Debt Collection Practices Act .....	21 — 82
Rules Regarding the Acquisition of Information to Locate a Debtor .....	21 — 82
Rules Regarding Communication with the Debtor.....	21 — 83
General Rule Regarding Communication with Third Parties .....	21 — 83
Rule Requiring the Ceasing of Communication .....	21 — 83
Rules Regarding Harassment or Abuse .....	21 — 84
False or Misleading Representations .....	21 — 84
Unfair Practices .....	21 — 85
Validation of Debts.....	21 — 86
Multiple Debts .....	21 — 86

Legal Actions by Debt Collectors.....	21 — 86a
Furnishing Deceptive Forms.....	21 — 86a
Telemarketing Abuse.....	21 — 86a
Definitions.....	21 — 86b
Telemarketing.....	21 — 86b
Exemptions.....	21 — 86b
The Rules of Behavior.....	21 — 86c
Unfair and Deceptive Business Practices.....	21 — 89
Investigation.....	21 — 91
Notice to Cosigners.....	21 — 91
Unfair Contract Provisions.....	21 — 91
Confessions of Judgment.....	21 — 92
Waivers of Exemption.....	21 — 92
Assignments of Wages.....	21 — 92
Nonpossessory Security Interests in Household Goods.....	21 — 92
Pyramiding Late Charges.....	21 — 92
Electronic Transfers of Funds.....	21 — 95
National Flood Insurance Act.....	21 — 96
Coverage Amount.....	21 — 96
Exception for Small Loans.....	21 — 96
Flood Insurance Escrow Accounts.....	21 — 96
Forced Placement of Flood Insurance.....	21 — 97
Flood Certification Fee.....	21 — 97
Flood Insurance Determination.....	21 — 98
Exceptions.....	21 — 98
Notice to Borrower and Servicer.....	21 — 98
Notice of Servicer’s Identity.....	21 — 99
Scope of Flood Insurance Escrow Requirement.....	21 — 100
Homeownership Counseling.....	21 — 100
Servicemembers Civil Relief Act.....	21 — 101
Definition of “Person in the Military Service”.....	21 — 101
Limitations on Interest.....	21 — 102
Installment Contracts Before Active Duty Commenced.....	21 — 103
Military Indulgence.....	21 — 103
Benefits Under the Act.....	21 — 103
Lending to Credit Union Officials.....	21 — 105
Loans and Lines of Credit to Officials.....	21 — 105
Exceptions.....	21 — 106
Tax Reporting.....	21 — 106
Mortgage Interest Reporting.....	21 — 106
Points.....	21 — 106
Mortgage Broker Points.....	21 — 107
Reporting Requirements for Foreclosed and Abandoned Collateral.....	21 — 108

## Chapter 22 Internet Activities

Managing Internet Offerings.....	22 — 2
Regulatory Compliance .....	22 — 2
Privacy Policy .....	22 — 2
RESPA and the Internet .....	22 — 2
E-Loans and Internet Mortgage Lending.....	22 — 2
Were Real Services Performed? .....	22 — 4
Reasonableness of Compensation .....	22 — 6
Disclosure .....	22 — 7
CLOs and the Internet.....	22 — 7
CLO Pricing.....	22 — 8
Neutral Displays of Information.....	22 — 9
CLOs and Affiliated Business Arrangements .....	22 — 9
Web Links.....	22 — 9
Electronic Disclosures .....	22 — 11
Managing Internet Technology Risks.....	22 — 11
Exhibit 22.1: Internet Activities Compliance Checklist.....	22 — 17
Exhibit 22.2: Model Web Site Privacy Policies .....	22 — 27
Exhibit 22.3: FFIEC Guidance on Electronic Financial Services and Consumer Compliance .....	22 — 33

## Appendixes

Appendix A — Glossary.....	A — 1
Appendix B — Interagency Guidelines for Real Estate Lending Policies .....	B — 1
Appendix C — Interagency Guidance on High LTV Residential Real Estate Lending.....	C — 1
Appendix D — Interagency Guidance on Subprime Lending and Expanded Guidance for Subprime Lending Programs .....	D — 1
Appendix E — Interagency Uniform Retail Credit Classification and Account Management Policy .....	E — 1